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MUNICIPAL GOVERNMENT

IN CANADA

EDITED BY

S. MORLEY WICKETT, B.A., Ph.D.

SOMETIME LECTURER IN POLITICAL ECONOMY

UNIVERSITY OF TORONTO

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EDITOR'S INTRODUCTION

Remarkably little has been written on the municipal system of Canada. For a number of years after confederation much of the thought of political writers was given to the constitution, but most of it was devoted to the division of powers *between* the Dominion and the provinces, comparatively little to the distribution of powers *within* the provinces. The explanation is not far to seek. The pre-confederation systems of local government were continued, and as population grew slowly there was little occasion to investigate them. The past ten or twelve years, however, have seen population increasing rapidly, and the sphere of municipal activity widening. The magnitude and the complexity of local interests are at length compelling attention to the field that it was formerly possible to pass lightly over. One might even say that the past unquestioned supremacy of provincial over municipal interests may not long remain unchallenged. Thus it is that many localities are already feeling that the simple organization of the past is unequal to the strain of modern municipal activity. The near future should see many important changes in the system and methods of conducting municipal business.

The present volume passes in review the main features of municipal development in the several provinces. The papers forming it have been contributed during the past five years and have appeared in four separate numbers. In the majority of instances they are written by men personally familiar with local conditions. A few additional notes will be found in the addenda.

The account given is not exhaustive. It is a discussion of those matters on which data are available and which are indigenous or sufficiently important to repay examination. It is necessarily factual. No attempt is made to set up generalizations as to the discovery in local laws or practices of regard for certain traditional political principles. To undertake that would be at present highly venturesome, perhaps fantastic. Canada is a country in the making, and the influences on day-to-day legislation are too chaotic and utilitarian. But it is just this

practical character which adds to the interest and value of a review of political institutions in a young commonwealth.

From the material presented two or three outstanding features will be remarked. In the first place it will be noticed that municipally Canada falls roughly into three divisions, (1) the Maritime Provinces, (2) Quebec, and (3) Ontario and the West. But the large number of amending Acts passed each year is gradually bringing about growing similarity in municipal law and organization, Ontario serving most frequently as model. It will be noticed further that the municipal system is neither English nor American, but like the first general municipal Act of Ontario, a combination of both with modifications suited to local conditions. Not sufficient time has elapsed, nor have the requirements been severe enough to develop as yet a distinct Canadian type. It will be noted also that the municipal machinery is adapted to a modest range of local activity rather than to the heavier duties that already are being thrust upon it by modern demands on municipal government. Its deficiencies form the basis for certain suggestions submitted in the closing paper. Of particular developments the evolution of the Board of Control and, in Ontario, the creation of a local government board are perhaps the most interesting. From the bibliography given it will be noticed that Canadian municipal literature is very scattered and miscellaneous. Mention must be made here of the fact that since the earliest of the following papers were written there has been a large influx of foreigners, which tends steadily to lessen the homogeneity of the town population.

All the contributors are interested students of local government. But a word of personal thanks is due to them for helping to make this volume possible, particularly in view of the inaccessibility of data and the imperfections of average municipal reports. Thanks must also be returned to the many provincial and municipal officials and other correspondents, forming a list too long to be given here, who have furnished valuable information.

S. MORLEY WICKETT

TORONTO, November, 1907

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APPENDIX: BIBLIOGRAPHY
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PREFATORY NOTE

The following articles are published as a brief introduction to the study of Canadian City Government. The suggestive sketch of Westmount, the "model town," the youngest of the cities of Canada, is from the pen of its highly-esteemed Mayor. My thanks are due to Professor Mavor for his valued assistance in revising the proofs.

S. MORLEY WICKETT.

THE UNIVERSITY OF TORONTO,
February, 1902.

CITY GOVERNMENT IN CANADA

BY

S. MORLEY WICKETT, PH.D.,

LECTURER ON POLITICAL ECONOMY, UNIVERSITY OF TORONTO.

CITY GOVERNMENT IN CANADA

BY S. MORLEY WICKETT, PH.D.

British institutions have been essentially reproduced in Canada as far as circumstances have permitted. They have served as model alike for federal, provincial and civic organization. Canadian city government accordingly much more resembles the simpler English type than it does the complex constitutions of United States cities; though in some points recent municipal experiments in the American Republic have been taken full advantage of in the Dominion. But, as we shall see, city government in Canada is not lacking in characteristic and promising features. This is to be expected; for the conditions under which the country was settled and the homogeneity of the population have greatly favoured the development of a satisfactory, and to some extent independent, system of municipal government.

It is worthy of remark that during the last generation and a half municipal matters calling for amendment have never violently disturbed the Canadian public. The reason is that in the main they have been disposed of almost as they arose. The practice of considering changes in the Municipal Acts at each session of the provincial legislatures, and the tardy growth of Canada's population, which has not advanced, either generally or locally, by leaps and bounds as in the United States, have made this possible. The rise of great cities, in fact, is scarcely yet a feature in the growth of the Dominion. Only two cities have a population of over 100,000: Toronto has 220,000, and Montreal 275,000, or including the outlying municipalities, which may be considered as forming part of the city, 320,000. Three other cities, Winnipeg, Vancouver and Calgary, which also show signs of becoming great emporiums of trade, have all less than forty-five thousand. This figure, indeed, is not

reached by any city outside of Ontario and Quebec. To take a general survey, the twenty largest cities, according to the census of 1901, have a general average of only 48,978, or excluding Montreal and Toronto, of but 28,000. A comparison will throw more light on this point. In the United States in 1870 places of 8,000 or more contained nearly 21 per cent. of the entire population; in 1880 the 21 per cent. had increased to 22.57 per cent.; and in 1890 to 29.20 per cent. In Canada in 1871 only 13.01 per cent. of the population lived in cities and towns of over 5,000 inhabitants; in 1881 this percentage had grown to 16.91 per cent.; and in 1891 to 21.09 per cent. Were the basis of the calculation 8,000, as in the United States, instead of 5,000, these percentages would, of course, be much smaller.

The above figures show, however, that the increasing concentration of population which has caused such changes in economic and political conditions in the various countries of the world is not absent in Canada. In the more settled districts rural population has become even sparser than it was ten years ago. This is explained in part by the great extension of settlement in "the virgin province" of Manitoba and in the west. But, also, the number of people living in the towns and cities has grown steadily. The census returns for 1891 allocate one-fourth of the increase in population between 1871 and 1891 to cities and towns of over 5,000 inhabitants. Conversely for the rural regions the area of "improved land" in the Dominion advanced in the decade preceding 1891 somewhat over 6,638,000 acres; but the number of "farmers and farmers' sons" shrank from 656,712 to 649,506.[1] In Ontario population increased between 1878 and 1896, according to the reports of the Bureau of Industries (Ontario), from 1,652,686 to 1,972,286 or 19.3 per cent. Yet, in spite of a great expansion in dairying, there was a decrease in rural population of 1.1 per cent. Meanwhile the population of towns and villages increased 37.8 per cent., and that of cities somewhat over 100 per cent. These figures will probably apply generally to the other provinces of eastern Can-

[1] These figures are not altogether conclusive, for they do not include such "agriculturists" as stock-raisers, apiarists, nurserymen, etc., nor "farm labourers." See the second volumes of the census reports for 1881 and 1891.

ada as well, with the possible exception of Quebec. Lack of adequate returns of the *de facto* or actual population prevents more exact statement. The figures given are certainly sufficiently significant for those in Canada who are beginning to give more attention to municipal matters.

If Canadian cities are not large, neither is their history long. The oldest incorporated city is St. John, N.B., which is now attracting considerable attention as an alternative shipping port with Halifax. St. John was incorporated in 1784, one year after the landing of the American Loyalists, who numbered for this locality about 5,000.[2] Its present population is about 40,000. Quebec and Montreal, much older and more important settlements, followed it in 1832, though four years later their charters were suspended until 1840. Toronto received its incorporation in 1834, the year preceding the great English Municipal Corporations Act; Halifax in 1841; Kingston and Hamilton in 1846; Ottawa in 1854; New Westminster in 1860; Victoria in 1862; Winnipeg in 1874; St. Thomas in 1881; Vancouver in 1886; Windsor in 1892; Calgary in 1893; Woodstock in 1901.

It is further clear that after such a short career Canadian city government has not yet undergone the straining and testing which is inevitable with huge aggregations of population, and that its history will not be, on the whole, so dramatically interesting as that of many towns of the United States. Yet the same tendencies that have appeared so prominently in the history of cities in the neighbouring Republic have at times made themselves felt in Canada. In these pages an attempt is made to summarize some of the conditions, influences and measures that have been helpful in combating them.

Let us look beyond the city for a moment, and take a general survey of municipal Canada with its county, its rural municipality, its township and other administrative units. The county,

[2] The landing of the Loyalists is given as on the 18th of May, which is celebrated at present as St. John's natal day. This large immigration into the valley of the St. John river led at the same time to the establishment of the province of New Brunswick. The city's charter, which it has been said was modelled on that of New York, whence many of the refugees had come, is in some details quaint and entertaining. *Cf.* a general reference in Hopkins' *Canada, an Encyclopædia*, vol. v., p. 256.

which is prominent in Ontario and the east, is not met with in the west. Its place is taken there by the less highly organized rural municipality.[3] In Nova Scotia and New Brunswick the unit of local government outside the towns is the county. In the latter province the principal places, such as St. John, Moncton, St. Stephen and Campbellton, as well as certain important parishes, are even represented in the county councils. Thus, apart from city government, Canadian local government falls logically into three divisions: the Maritime provinces, with the county as the unit; Quebec and Ontario, with the mixed county-township system; and the west, including Manitoba, with the pure township system. In these divisions there is considerable parallelism to the distribution of local-government forms in the American Union, as the readers of Mr. Bryce[4] will recall. In Ontario and Manitoba, cities are incorporated under general statutes, by which a population of a certain size and density may be proclaimed a city by the Lieutenant-Governor;[5] in other parts of Canada this is done by special legislation. To some other special features reference will be made presently. One of the most prominent among these is the control of the liquor patronage, which in the west and, since 1896, in New Brunswick as well has been placed in the hands of provincial commissioners; but in the east, with the one exception just named, it rests still with the cities.

In a study of city government, however, the character of the administration forms the line of division, rather than the relation

[3] The simpler system of the west is instructive for the rest of Canada. In Ontario and Quebec the county was at its institution merely an electoral district. In Nova Scotia the county was created, in preference to the smaller municipal unit, to guard against the spread of New England democracy, which had been so successfully fostered in the town meeting. But the tendency has been towards uniformity of system, and at present the county organizations in the three provinces resemble one another not only in general outline but also in many important details. Some time ago the complaint of "over-government" was raised in Ontario against the multiplication of administrative units: village, township, county, province. Since then the system of county representation has been simplified. Another matter is now demanding attention—namely, the jurisdiction of the county court, which, because of its expensiveness, it seems advisable to restrict in favour of the division courts. On this important matter, see the reports of the Inspector of Legal Offices and of the Inspector of Division Courts for 1898, etc.

[4] *American Commonwealth*, vol i., ch. xlviii.

[5] Usually however a special act of Parliament is passed, declaring the town a city and making provision for liabilities, etc.

between the various municipal units. From this point of view there is noticeable throughout the Dominion a gradual approximation to one type of city government. But it will be found advisable to divide urban Canada roughly into two sections, chiefly on grounds of administrative organization, but to a certain extent of historical association as well. In the west, Ontario, Manitoba, British Columbia and the Northwest represent a tolerably uniform area. Owing largely to the fact that so many Ontario men have accepted municipal appointments or entered upon the practice of law in its leading cities, the municipal system of Ontario has in many respects served as model. In the east, Quebec, the Maritime provinces and Newfoundland may be grouped together, though on historical grounds Quebec may lay claim to a position apart; while Newfoundland forms as yet no part of the Dominion, but in course of time undoubtedly will.

Precedent in the United States, as already observed,[6] has influenced Canadian civic organization in many important respects. For this reason, and because New World influences also prevail in Canada, certain features of city government in the United States may be used as a standard of comparison. In the simplicity of its detailed organization, however, urban government in Canada approximates rather to the English than to the American type.

Perhaps the most striking contrast between municipal organization in Canada and in the United States is found in the one being in a state of free development, while the other is conditioned by the requirements of a system. In Canada the municipal constitution is changing from Parliament to Parliament, from session to session, unfolding new powers here, dropping others there, according as requirements dictate or experience advises. In the United States the springing up of large towns and the rapid growth of great metropolitan centres have necessitated their being housed in administrative structures for which the lines were suggested, as Mr. Bryce and others point out,[7] by the already existing state governments.

[6] *Cf.* First Report of the Ontario Municipal Commission of 1888, p. 22.

[7] Bryce, as cited, vol. i, ch. 1; and Goodnow, *Municipal Problems*, pp. 16, 21, where the author speaks of a too strict adherence in American municipal legislation to doctrinaire teachings.

That the process of adaptation demanded many alterations was to be expected, for city and state are so differently conditioned, both from the standpoint of party politics and from that of general administration, that an organization which has been eminently successful for the state may not be at all adapted to the smaller unit.[8] In Canada, on the other hand, the municipal organization is in the main the outcome of gradual development and forms therefore a reliable reflection of local growth. The series of municipal amendments passed from session to session of the provincial legislatures, mostly on the initiative of the local councils, bears this out. In Toronto, whose plan of action is characteristic of much of Canada, it is the practice to suggest to Parliament any changes in the Municipal Act which the experiences of the preceding year may have warranted. As a result the Municipal Committee of the Ontario Legislature has come to be one of the most important of the standing committees. The civic organization of Canada is in this way the outcome of a steady development covering approximately half a century.[9]

A second important factor in Canadian municipal growth is the homogeneity of the population—setting aside the French element, which forms practically a distinct group in a single province.[10] In this respect again, the contrast with the United States is marked. In 1891, in every 100 of the population 96.7 were of British and 1.2 of United States birth. This leaves but the small percentage of 2.1 to be credited to all other national-

[8] *Cf.* Eaton, *The Government of Municipalities*, pp. 63 *et seq.*

[9] The later development of Ontario's municipal institutions may be conveniently dated from 1849 when the Magna Charta of Upper Canada's local government, known as the Baldwin Municipal Act, became law. Quebec's municipal history dates practically from an ordinance of the Special Council of 1841 (4 Vic., c. 4), "to provide for the better internal government of this Province by the establishment of Local or Municipal Institutions therein." The Lower Canada Municipal and Roads Act, which is the basis of the present organization, was passed in 1855.

[10] The census of 1891 returns 1,404,974, or 29 per cent. of the Dominion's population as of French descent. As these figures are based on the *de jure* system of enumeration, under which people are enumerated according to their permanent domicile, they probably include many thousands, probably many tens of thousands, of French-Canadians working in New England factories. Of these 1,186,346, or 85 per cent. of those enumerated, are ascribed to the province of Quebec. Quebec (City), since the withdrawal of the British regulars some years ago, is now almost altogether French-Canadian, although at present one or two of its aldermen are British-Canadians. Of the 91,605 French-Canadians (6.5 per cent. of the whole) returned for Nova Scotia and New Brunswick very few appear in the larger towns or cities.

ities. Or, taking Ottawa, Montreal and six out of the seven provincial capitals (that of Prince Edward Island not being specially referred to in the census report), we find that in 100 of the mean population of these cities only 5.6 were foreign born; or, excluding settlers from the United States, merely 3.21. This makes a striking comparison with the latter country. In every 100 of the mean population of the fifty largest cities of the United States 30.77 are foreign born; in the rest of the country 11.29. The homogeneity of Canada's population certainly simplifies the problem of city government. Montreal and Ottawa alone among the cities appear to be somewhat trammelled in their municipal activity by racial and concomitant religious influences. Of Montreal's population considerably over one-half is French-Canadian, of Ottawa's one-third.

A restricted municipal franchise is a third feature of urban government in Canada. In Nova Scotia and St. John's (Nfld.) the qualification for municipal voters resembles that required in England—namely, twelve months' residence within the municipality and payment of poor and city rates, for which the voters must not be in arrears. For the one city of Prince Edward Island, Charlottetown, twelve months' residence and payment of the city poll tax constitutes the minimum. In the cities of Ontario, and in Calgary, the only incorporated city in the Northwest Territories, ratepayers upon an income of $400 may vote, and in the city of St. John ratepayers upon an income of $300. Elsewhere, with the exception of Charlottetown, where a poll tax of $2 qualifies, a property qualification as owner or occupant is necessary. Ontario—as an alternative to income—and Manitoba demand a realty qualification of $400; Montreal one of $300, or an assessed annual value of $30, which Quebec (City) makes $25 for proprietors and $50 for occupants. In New Brunswick the amount of the real property qualification is not specified. In the four largest cities of British Columbia a six months' residence and an annual rental of $60 in three instances, and $100 in the fourth, are sufficient to qualify. But Chinese and Indians are not entitled to vote. In most cases the urban franchise is more conservative than the provincial.[11]

11 A comparison of the number of voters under provincial and municipal

This is particularly true of Ontario. It may, in fact, be said that throughout Canada the municipality is regarded more as a species of joint stock company, only those contributing the capital being allowed to share in the direction of its affairs. That this is an extremely useful conception will be denied by few.[12] Yet almost yearly some city council, this year Toronto, adopts a resolution to have the franchise lowered.

But while homogeneity of population and a restricted franchise have undoubtedly favoured municipal government in Canada, they do not altogether explain its unusually placid course. An influence perhaps even more potent is the comparative non-interference of political parties. Here again is presented a striking contrast to conditions in the United States. Generally speaking, public opinion in Canada has been thus far opposed to the direct introduction of party politics into municipal matters. Partisan influences are, it is true, never wholly absent; in a few places they are decidedly active, though this is fortunately the exception. The explanation of this exemption from political interference will be found mainly in the smallness of many of the cities, the homogeneity of the population and the predominance of local interests and influences.[13] To this should

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franchise, respectively, is of course not possible, because of the scattered properties of many owners and consequent duplications in the voters' lists. Moreover, in city elections women are entitled to vote. By Act of 1898 (61 Vic., c. 14), it may be mentioned, the provincial franchises were adopted as the basis for the federal elections in the respective provinces. In Ontario and the west the provincial franchise is practically universal after a certain term of residence; in the eastern provinces the suffrage is more restricted. *Cf.* "The Electoral Franchise in Canada," by T. Hodgins, K.C., in Hopkins' *Canada*, vol. v.

[12] That property-owners, however, may at times require more protection against themselves than against the non-property-holding classes has been frequently remarked. The experience of Toronto, for instance, between 1885 and 1890, when miles of new streets were laid out and furnished with sewers and water and gas mains, far in advance of the real requirements of the city, is but the repetition of an incident in Philadelphia history, as commented upon in Allinson and Penrose, *Philadelphia, 1681-1887; a History of Municipal Development*, p. 278.

[13] In contrast to conditions in many parts of the American Union, the dates for provincial and federal elections are fixed independently of the municipal elections, with which they may be said practically never to conflict. This is the more likely since city elections, with but few exceptions, are held between the months of December and April. The absence of party, or some other organization to fill its place has, however, left the bringing forward of municipal candidates largely to interested parties, self-help and chance. This condition of affairs has told heavily on the representative character of the aldermen. Happily however we have some valiant workers in the municipal field.

be added the conservatism of the civic franchise, and certain regulations as to municipal patronage, through which political spoils are in part shielded from local politicians and in part removed to the more suitable field of the province.

In the first place, municipal offices are filled, not by popular election, but by mayor and council. Moreover, as a rule, the appointments are not for a specified term, but in practice are permanent during good behaviour. In one or two provinces police appointments have been placed in the hands of commissioners independent of the city council. In the cities of Ontario, for example, the police are under a board of commissioners, composed of the judge of the county court, the mayor, the police magistrate, and a permanent inspector appointed by the city council. The same system of control is also met with in Winnipeg, and again in the cities of British Columbia, though here the place of the judge is taken by an appointee of the Crown.[14] In Charlottetown, Prince Edward Island, and St. John, New Brunswick, the police magistrate is appointed by the Lieutenant-Governor and is given general powers of supervision. Otherwise and elsewhere in Canada the city council is the controlling body. St. John's, Newfoundland, is policed by the "Terra Nova Constabulary," a body controlled by the general government.

In the second place, the liquor-license patronage, as already observed, has been transferred in most of the provinces from direct municipal control to provincial supervision. Ontario began the march in this direction in 1876, by entrusting the granting of all liquor licenses to a board of three liquor-license commissioners, appointed by the Lieutenant-Governor-in-Council,[15] reserving to each municipality the right to decide for itself

[14] By Act of 1899 (c. 53) the police commissioners for any city of British Columbia are to consist of the mayor and two appointees of the Lieutenant-Governor, one of whom must be a member of the city council. The commissioners are appointed annually.

[15] According to the British North America Act of 1867, which is in effect the constitution of Canada, the Dominion has exclusive powers in "the regulation of trade and commerce." It was, accordingly, for a considerable time uncertain whether the Dominion or the provinces had the right to grant liquor licenses. The decision of the Privy Council in England in 1884 finally settled the question in favour of the provinces.—Reference to this decision in Bourinot, *Manual of the Constitutional History of Canada*, new ed. (1901) ch. xiii, pp. 92 *et seq.*

how many licenses are to be granted within its limits. Manitoba followed in 1889, British Columbia in 1892,[16] New Brunswick in 1896, and the Northwest Territories in 1897. Quebec and Nova Scotia are accordingly the only provinces of importance that preserve the older system of appointments. In the province of Quebec, conformably to section 842 of the revised liquor-license law, the granting of a license is to be refused if opposed by a majority of the electors resident in the locality. In Quebec (City) the grant must be confirmed by the judge of the sessions of the peace or the city recorder; in Montreal, by the two judges of the sessions of the peace and the recorder, or any two of them.

It will not do to minimize the influence of these two sets of provisions—even though their application is not quite general—on the efficiency of Canadian city government. In fact, it is difficult to overestimate their importance for the cities of western Canada, and, as regards liquor-license patronage, for those of New Brunswick as well. In Nova Scotia, where a strong "prohibition" sentiment prevails, the importance of this patronage is somewhat diminished.

Another problem now under vigorous discussion in the American Union is that as to the administrative and financial relation between state and city. It is to be noted, at the outset, that the seven large provinces of Canada and the four organized territories are much more important, relatively to their cities, than are the forty-nine states and territories of the Union. This is more or less evident from their size alone. But up to the present except in matters of sanitation there has been no pronounced attempt at supervision, such as is afforded in England by the Local Government Board. What measure of surveillance exists is exercised, as in the United States, solely by the legislatures. But, partly as the result of a vigorous local spirit, partly as the consequence of concentration of power and personal responsibility in the various cabinets,—which is more marked in the provinces than at Ottawa,—the provincial legislatures have usually shown sufficient regard for the wishes of their

[16] By the Act of 1899 a similar system to that outlined for license commissioners has been adopted for police commissioners.

municipalities; although, curiously enough, in most provinces it has happened that the majority of city members have been for a long time identified with the parliamentary opposition! The fact remains, however, that theoretically the provincial legislatures have an overshadowing power, as compared with cities, on whom is thus laid the burden of constant watchfulness in safeguarding their local interests. The present dispute with the telephone and telegraph companies as to their rights over city streets is an instance in point. Complaints have also been raised in several of the provinces that members of the provincial legislatures from rural constituencies are sometimes too easily brought into line against those representing cities.

The provincial power is brought to bear either through legislation or administratively through financial grants—as, for instance, in connection with education. Besides the regulations already cited for liquor and police patronage, there are also provisions for sinking funds, which are very complete in Ontario, for the limitation of municipal indebtedness—on the efficacy of which the recent financial history of Montreal may be consulted,[17] —for boards of health, etc. In connection with the question of provincial supervision, the desirability of the province issuing systematic, reliable municipal reports naturally suggests itself. This is necessary both for legislative and for general financial information. Of late years more attention is being paid by several of the provinces to the compilation and publication of such statistics, based on the auditors' reports from the various cities. Ontario leads the way in this regard. British Columbia has begun to follow, and Quebec also, though very tentatively. With respect to taxation the relations between the provinces and their cities are still in an inchoate condition. These financial relations will demand more attention in the near future.

In the exercise of legislative control over cities, Ontario and Manitoba, where the circumstances permit it, pass with few exceptions only general laws or acts applying to all municipalities classified according to some standard, usually that of population. This is the case in the other provinces as well, so far as towns

[17] *Cf.* J. Roy Perry, *Public Debts in Canada* (University of Toronto Studies, Economic Series, No. 1), pp. 80-82.

and cities not specially incorporated are concerned.[18] The question of special and general laws, however, has not yet become matter of public debate, though it is referred to in the Ontario Municipal Report for 1888. Mr. Wilcox, in his convenient book, *The Study of City Government*,[19] states that more than half the commonwealths of the United States require that cities be organized by general laws or forbid the legislatures to pass any special laws affecting city charters. In Canada the provincial legislature is sovereign. In Ontario especially the comparative equality of the cities has favoured the possibility and efficacy of general municipal acts, with the result that changes in the municipal law have usually been followed with widespread interest. The dangers of political pressure and log-rolling have been proportionately minimized. Toronto is the only city in Ontario that may be called of the first-class—of 100,000 inhabitants and over. Mr. C. R. W. Biggar, late city solicitor of Toronto, and now editor of The Municipal Manual, an expert on Ontario municipal law and legislation, has made the wise suggestion that the influence of such general legislation be strengthened by lowering the limit of cities of the first-class to 50,000. Voices have also been heard advocating the granting of special charters to the cities. At some future date particular charters may be advisable. but for reasons sufficiently apparent from a study of municipal development they are assuredly not needed for many years to come.

In 1897 an important innovation, in the same direction as recent reform policy in the United States, gained a footing in Canada by way of Toronto. The object was to fix responsibility for municipal policy, by separating the legislative and the administrative functions of the city council. To this end the Board of Control was constituted, composed of the mayor as chairman, and three, later (to avoid a double vote of the mayor) four, aldermen, chosen by plenary vote of the council.[20] This board has

[18] *Cf.* for Ontario, the Municipal and Assessment Acts of 1897; for British Columbia, Municipal Act of 1881; for Manitoba, Act of 1888; for Northwest Territories, Act of 1894; for Quebec, Act of 1888 and Municipal Code of Quebec, 1898; for Prince Edward Island, Act of 1870; for Nova Scotia, Act of 1895; for New Brunswick, Act of 1898 and amendments thereto.

[19] Pp. 87 *et seq.*

[20] In Canadian cities, in contrast to the United States, there is but a single

sole power to prepare and submit the estimates for the year, but its actions are subject to revision by a two-thirds vote of the council. The mayor accordingly requires the support of but two other members of the board in order to be fairly supreme in the general policy of the city. A secondary result has been to increase the responsibility and raise the dignity of the mayoral office. At the recent revision of Montreal's charter[21] the adoption of a similar system was proposed, and was only defeated in the legislature after a spirited struggle. The charter now provides for a finance committee endowed with considerable powers. The committee is composed of seven of the aldermen, none of whom can be a member of any other standing committee. It prepares the annual estimates and has the right to consider all recommendations involving financial outlay and the awarding of contracts. Its decision is subject to revision by a vote of three-fourths of the council. This partial centralization of responsibility has not been thus far particularly successful, as the recent consolidation of Montreal bonds shows, though it has permitted a closer financial supervision than formerly. Yet the experiment in Toronto has certainly enjoyed a much greater measure of success. The constitution of the Toronto board is, however, not without its anomalies. It overlooks, for instance, the chairmen of the standing committees of council of whom it might almost have been expected to consist, and with whose duties it often clashes. Moreover, the personnel of the board has not always been such as to inspire full confidence on the part of the citizens. Selection of controllers by general vote might conduce to a more representative body.[22] An alderman in Toronto, it may be added, receives $300, if he is chairman of a standing committee $400, and if controller $700.

representative chamber. The number of aldermen is characteristically small, varying from nine to twenty-six, the largest number obtaining in Montreal. Toronto has twenty-four in its council. The adoption of a Board of Control was at first limited to cities of 100,000 and over, but later extended to those of 45,000, the city of Hamilton being specially excepted.

[21] Assented to March 10th, 1899. See Quebec Statutes, 62 Vic., c. 58.

[22] This mode of electing controllers is now about to be suggested as one of the amendments to the Ontario Municipal Act. If the amendment is made a possible outcome is for mayor and controllers to be elected on one ticket. In this way a new kind of municipal headship would be brought about.

The intricate topic of civic taxation can only be alluded to. The extension of the income tax, the introduction of the franchise tax and its bearing on federal and provincial legislation, the placing of the local improvement (betterment) taxes upon a more permanent basis, are problems now coming to the fore. In Ontario there is a desire to reintroduce the tax on rentals in place of the present realty tax. The chief incentive to the change appears to be the desire to remove all danger of frightening capital and business to Montreal where the rental tax is still in force.

In the details of municipal administration one or two matters invite attention. There is, in the first place, in some cities a certain indefiniteness in financial supervision over moneys received as taxes or from other sources; and, in the second place, a lack of system in the care of sinking funds. But, as regards financial supervision, conditions are not so serious as many surmises might lead one to imagine. Taxes and other city revenues are mostly paid by cheque; and it appears to be the practice in the great majority of the cities not to cash paper payable to the corporation, but to deposit it and draw money only on direct order from the city treasurer. In some localities, however, the treasurer's control over the tax collectors, it would seem, might be placed on a more effective basis than at present.

In the care of their sinking funds, the cities of Vancouver and Winnipeg stand apart, in having each a board of sinking-fund trustees. In each case the board consists of three members, two of whom are appointed by High Court judges. In other cities, so far as I have been able to learn, the sinking funds, amounting at times to very large sums, are controlled by the city treasurers. In their recent report, the auditors of the city of London, Ontario, suggest that city debentures might be better safeguarded by bearing a stamp to make them non-negotiable in the hands of persons who may become fraudulently possessed of them, but available for sale in the open market. "The entire system of sinking-fund accumulations,"[23] they

[23] They have presumably in mind only the management, not the measures looking to the formation, of sinking funds; for in Ontario ample provision is made by general law for repayment of loans by means of sinking funds within specific periods, varying according to the nature of the loan from three to twenty years.

continue—referring, of course, to their own city—"needs revision, and, as far as similar results can be otherwise arrived at, should be superseded." They refer to the difficulty in financing the funds for short periods, and conclude by a comparison favourable to the policy of issuing annuities. In Ontario this policy has been followed for some time by the province, but has given rise to a good deal of unfavourable discussion because of the resulting indefiniteness concerning the provincial debt. It is, accordingly, just possible that a proposal to introduce the system of annuities into municipal finance might not meet with popular support. But the proposal, so far as it concerns sinking funds and not general liabilities, should not, for this reason, be prejudiced.

As regards the control of municipal franchises, it is to be noted, in the first place, that there has long been in Canada a disinclination to adopt municipal management of public works, with perhaps the single exception of waterworks. It must be said, however, that in this respect a revolution in public sentiment has taken place lately in many parts of Canada. The difficulties experienced by municipalities in attempting to control enfranchised corporations, and the danger of corporation influence upon the course of legislation, have been potent factors leading to the change of front. In Ontario legislation has recently provided for the taking over of such corporation property and franchises. There are a few cities already possessing electric-light plants, *e.g.*, New Westminster, Three Rivers, Windsor, (until recently) Brantford, and now Winnipeg. But, with these exceptions, the various city franchises have been let usually as monopolies to private companies. With the growth of population, and on the expiration of past contracts, the new franchises are being made to yield returns to the city, in the form of percentages on gross earnings. Hamilton, Ottawa, Toronto and Halifax, for example, receive percentages from their street-railway companies; and up to a few years ago Toronto received a percentage from the local branch of the Bell Telephone Company.

The term for which franchises are granted varies. For electric lighting it is usually ten years, but Quebec's recent con-

tract with the Montmorency Company is for the long period of thirty years. For street railways it is from fifteen to thirty years, the latter period obtaining, for example, in Montreal and Toronto. London's street railway franchise is an old one, running for fifty years, of which thirty have already expired.

The prices obtained by the cities for the monopoly privileges have, on the whole, been favourable. It is rather interesting to note, in this connection, that in their standards for such prices Canadians have looked rather to England than to the United States; yet, as a matter of fact, with the possible exception of telephone charges, their prices are nearer to the American than to the English standard. The rentals for business and residence telephones in Toronto are $45 and $25, respectively, though an additional $5 is now being charged for the installation of the most improved instruments; in London a telephone license costs $10 (with a reduction to one or two professions, such as doctors and dentists), after which a small charge is made for each message; in Quebec a telephone costs $35 per year, or $75 for three years; the average cost in Montreal, where prices vary according to distance from a central district, may be placed at $55.

Along with the demand for federal ownership of the telegraph system, which, if reports are to be credited, will probably be met within the near future, some voices have been raised for the civic ownership of the telephones. Provincial ownership of the trunk lines between the municipalities would be almost a necessary incident in such a policy.[24]

Although there is an inclination in several cities to exert a pressure on the prices fixed by enfranchised companies—*e.g.*, in Toronto and Montreal on gas charges, and in Toronto on telephone rentals—no very successful efforts have been made. In Toronto, where the Consumers' Gas Company has a perpetual charter and a present monopoly of the gas supply, an agreement was made some twelve years ago according to which the price of gas was to be reduced five cents per thousand feet when the reserve fund of the company had reached a certain figure. The

[24] By a plebiscite just taken (Jan., 1902) Ottawa has pronounced in favour of the city owning its own telephone service.

experience of the city with the company, however, has proved but another illustration of the problems that arise in guarding public interests, even after the most careful legislation.[25] According to the report of the city auditor, the reduction in price since 1888—namely, from $1.12½ to 90 cents—should have been considerably greater. A working agreement between city and company, however, is in sight. In the meantime the demand for the expropriation of the company's plant is rapidly gaining strength. In Montreal the price of gas per thousand feet is $1.20 for lighting and $1.00 for cooking purposes; in London the net price is 94 cents; in Hamilton it was lately reduced to $1.00. In Montreal at the recent revision of the electric lighting agreement the price for electric lighting was cut in half, though the competing company which forced the break was not given the contract. The high price at which many of the enfranchised gas and other stocks are listed—some of the stocks, moreover, representing considerable "water"—goes to show the extremely healthy condition of the companies. At the time of writing, the cities of Ontario are still face to face with the now notorious "scrap-iron assessments." These unfairly low assessments are due to a clause in the Municipal Act unnoted until lately, by which the plant of companies situated in more than one ward could be assessed only in the ward in which it lay. Cut off from its headquarters much company plant could only be regarded as "scrap." Legislative amendment ought not to have been delayed so long.

As to municipal debts the total indebtedness of Canadian cities has grown steadily of late years. But a concurrent reduction in the rate of interest from six and seven to four, three and one-half and three per cent., has largely counterbalanced the advances. The amount paid as interest or discount had actually fallen, although the gross debt of the thirteen cities of Ontario had risen from thirty and a half in 1891 to forty and a half millions in 1898. It is worth noting that the gross debenture indebtedness of counties and townships in Ontario has been steadily declining, that of villages advancing slightly, and that

[25] *Cf.* W. D. Gregory, *Toronto, A Municipal Study*, (The Outlook, February 5th, 1898).

of towns, which have a population of from 2,000 to 10,000, rising more rapidly than that of cities. In general indebtedness Montreal stands first amongst the cities, with a gross debt on December 31st, 1900, of twenty-six and a quarter millions ; Toronto second, with twenty and four-fifths millions, but with a sinking fund—for which Montreal makes practically no provision—of nearly five and a half millions. These debts are not extravagant for cities of their size, and the credit of both municipalities is high, though it is true that in both cities the outlay for non-revenue-producing purposes has been greater during the last few years than formerly. This has led some to the opinion that the debt-creating powers of councils should be more strictly controlled. The following table allows a survey of some of the largest city debts :

	Year Ending.	Population	Total Debent're Debt.	Floating Indebtedness.	Sinking Funds.	Taxation per Head.	Mills on $
The 18 cities of Ont.....	31 Dec. '98	448,876	$38,506,528	$3,029,596	$9,850,115	$11.63	21.8
Toronto, Ont.....	31 Dec. '98	193,246	21,603,478	1,126,388	5,640,563†	18.83	21.
Ottawa, Ont.....	31 Dec. '98	57,002	4,301,642	547,940	1,295,287	9.31	22.4
Hamilton, Ont.....	31 Dec. '98	51,561	3,573,791	123,516	313,431	10.51	19.8
London, Ont.....	31 Dec. '98	38,902	2,781,051	17,245	1,292,956	10.68	24.3
Montreal, Que.....	31 Dec. '98	260,000*	23,744,401	2,273,010			
Quebec, Que.....	30 Apr. '98	65,000*	6,940,033		278,848		
Sherbrooke, Que.....	15 Dec. '98	10,470	497,000				
Winnipeg, Man.....	30 Apr. '98	38,733	3,235,874				
St. John, N.B.....	31 Dec. '98	26,000*	3,516,492	835,719	345,417		
Halifax, N.S.....	31 Dec. '98	40,000	1,834,788	24,957			
Victoria, B.C.....	31 Dec. '96	19,000	1,804,000		314,298		
Westminster, B.C.....	31 Dec. '96	7,500*	995 000	97,261	70,000		
Vancouver, B.C.....	31 Dec. '96	20,000*	2,003,100	9,702			

* Estimated population. The other figures are rather low as the recent census has shown. On December 31st, 1898, the indebtedness of the above-named four cities of Ontario was some $962,000 less than at the close of 1896.

† This amount is at present lower owing to recent debenture payments.

An analysis of these debts shows that almost all have been incurred for local improvements and other necessary public works. Waterworks and education are two of the largest items. The Ontario Municipal Commission of 1888 make the statement that expenditure per head and unit of wealth is less in Canadian cities than in the cities of the United States. But such general comparisons are of little value.

For the general success of city government it is, of course, to the stamp of men commanding that one must look. Capable city aldermen and heads of departments are called for. In the great majority of the cities two unnecessary obstacles shut out many able men from the council. In the first place are to be noted the losses and annoyances incidental to too frequent elections. As a rule, mayor and council are elected annually by popular vote. There are, however, exceptions. In Quebec, the mayor is chosen from among the aldermen by a majority vote of the board, while in both Montreal and Quebec he holds office for two years. In Halifax the aldermen have a three-year term of office, one-third retiring annually ; in St. John's, Newfoundland, two members of the council are appointed by the Governor-in-Council, and three elected by the ratepayers, all to hold office for three years. In Montreal and Quebec, in the two cities of Manitoba and in Vancouver, the aldermen sit for two years. A desirable general reform for all Canadian cities would be to increase the term of office of the mayors to at least two years. As a matter of fact, in cities where the office is an annual one it has almost become custom to re-elect a mayor who has been fairly satisfactory in order to allow him opportunity to develope his policy. As for aldermen, a two or a three year term is also highly advisable, one-half or one-third of them being elected each year.[28]

The second obstacle to representative citizens seeking aldermanic honours is the lack, in the vast majority of cases, of any fixed tradition of professional independence on the part of the chief municipal officials. The constant interference of aldermen in departmental routine cannot, in the long run, be other than harmful in the extreme to departmental work. At the same time the increase in aldermanic duties which such a policy makes inevitable, deters desirable men from entering the council. The demand on the time and attention of city representa-

[28] In Ontario, during the last few years, many towns have abolished the ward system and adopted that of general representation. Recently advocates of the latter system have succeeded in obtaining its adoption in one or two of the cities as well. There is certainly some ground for dissatisfaction with the present ward representation ; for in nearly all Canadian cities the wards are over numerous. St. John, New Brunswick, it may be mentioned, has a combination of the two systems, in that one alderman is elected to its council by each ward and two aldermen by the whole city.

tives should not be unduly heavy. Municipal administration is, after all, mainly a technical task ; and in Canadian cities it still remains to insist upon greater independence and responsibility on the part of departmental heads. Together with this independence and responsibility there should be a much more complete system of reports from each department than at present. The cost of well-edited reports and civic year-books is trifling in comparison with the services that such publications are capable of rendering to municipal government. The most complete civic financial report at present is that of Toronto. The usefulness of such reports would be much enhanced by a classification of receipts and expenditures to accord with the distinctions made in text-books on public finance, e.g., receipts from sinking fund accounts, civic property, city franchises, fees and licenses, taxes, the province, fresh debenture issues, etc. The report of the city engineer of Toronto is also deserving of special mention. In bringing forward this matter of departmental publications it is a matter for regret that no manual on Canadian municipal government exists. Even the school and college histories contain only trifling references to the subject.

In several parts of Canada, more particularly in Ontario, where municipal institutions are furthest developed, a growing desire for a broader discussion of municipal problems is becoming evident. Besides the annual municipal convention for Ontario, which has met several times, a Union of Canadian Municipalities has just been formed, largely owing to the efforts of the present mayors of Westmount and Toronto. There is a great educational work for such an organization to perform, and plenty of room for combined effort on the part of the municipalities.[27]

On the whole, though perfection is not written across the face of city organization or administration in the Dominion, the basis of city government in Canada must be said to have been "well and truly laid." The conservatism of the urban franchise ; the homogeneity of the city population, which the future will probably not affect to the same extent as in the United

[27] The present mayor of Toronto is advocating a species of municipal trust in order to facilitate the negotiation of loans as well as to protect and advance municipal interests generally.

States ; the general policy with regard to municipal patronage and the consequent absence in large measure of party politics in city elections ; and, finally, the efficacy of " conservative innovation " and gradual growth and expansion of municipal legislation—these are features whose importance cannot be lost sight of. The conditions for good city government seem, therefore, propitious. Certainly the phrase, " the one conspicuous failure," which Mr. Bryce applies to the government of cities in the United States, will not be held applicable to city government in Canada. But it will not do for Canadians to boast. They are not yet out of the wood. Foreign elements are coming more into evidence in some of the cities, and there are many problems yet to be settled concerning the relations of province and city, and important matters more directly affecting municipal organization still to be disposed of. Of these the corporation question in its various aspects is one of overshadowing importance.

WESTMOUNT: A MUNICIPAL ILLUSTRATION

BY

W. D. LIGHTHALL.

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The town of Westmount adjoins the upper levels of Montreal on the west, and forms a residential district with an area of about 905 acres or $1\frac{2}{5}$ square miles. It is practically the only suburb of Montreal with a mountain or hillside situation. The municipalities surrounding it, by way of contrast, are to all intents parts of the vast plain of the St. Lawrence valley. The growth of the principal English residential section of Montreal has also taken place in the direction of Westmount, and has contributed to render the town the favourite suburb for the English-speaking population. At the same time the extravagance which for some years distinguished the municipal government of Montreal drove many to seek relief outside from excessive taxation and other objectionable conditions within the city. Montreal, in fact, is encircled by a number of municipalities which have preferred to remain outside its sphere although their borders are contiguous with it, and their populations large. Among these suburban municipalities are the cities of St. Henri and Ste. Cunegonde, both immediately below Westmount, with populations of some 22,000 and 11,000 respectively.[1]

The steady growth of taxable property and population in Westmount since its incorporation in 1890 is shown by the following statement:

Year.	*Assessed Value of Taxable Property.*	*Population.*	*Assessment per Head.*
1890	$ 4,141,810	1,850	$2,239
1893	5,716,835	3,033	1,884
1896	7,682,875	4,885	1,574
1899	9,968,310	7,716	1,291
1900	10,498,620	8,501	1,235
1901 (May)	11,527,300	9,256	1,246
1901 (December)	———	About 10,000	———

[1]The population of Montreal's various suburbs is as follows: Verdun 2,000, St. Henri 21,299, Ste. Cunegonde 11,000, Town of St. Paul 1,850, Côte St. Luke 400, Côte des Neiges Town 1,185, Town of Outemont 1,200, Town of St. Louis 10,000, Town of DeLorimier 500, Villeray 300, Maisonneuve 4,000, Longue Pointe 1,400, Westmount now about 10,000; altogether about 65,000.

In course of time a very considerable population is inevitable. The rate of growth will undoubtedly rise with increased pressure from within Montreal. The high valuation per head will immediately strike the student of municipal affairs. As this assessment excludes an unusually large proportion of exempted property belonging to Roman Catholic bodies, it may be said that Westmount contains three or four times the property value per head of the average city of Canada.[2] This fact suggests the standing of the population, which is that of a class of people comfortably provided for.

The population has always been disposed to facilitate improvements. It has accordingly been much easier to secure good government here than in places where the forces making for advance have had to contend with masses with less education and less business experience. The people have elected to the council a succession of business men, and given them a free hand. As a result, the services of the municipality have been developed on sound general principles. One of the former mayors is the legislative councillor for the English district of Montreal, Victoria; another is the present member of the legislature for the west division of the city; a third is a former president of the Montreal Board of Trade; and a fourth, who has been for a number of years chairman of finance of the town, was long treasurer of the Montreal Board of Trade, is now its vice-president, and is the sole nominee for its next president.

The number in the council at present is eight, two representing each of the four wards. They are elected for two years, one councillor in each ward retiring annually. Down to 1894 there were three councillors for each ward. The reduction to two has facilitated the despatch of business, but has made affairs more open to accidents of absence on the part of the councillors.

Pure water was one of the first necessities of the town. In 1887 a private company was formed to furnish a supply. In March, 1891, this company was bought out by the present Montreal Water & Power Co., which supplies most of the municipalities encircling Montreal. The new company entered at once into a

[2] The *per caput* assessment of the cities of Ontario for 1897, according to the report of the Bureau of Industries, was $559.

contract with the town under which it supplies water at 40 per cent. of the rates charged in Montreal. Certain additions however make the cost of water to the average house about 57 per cent. of that of the city of Montreal.[3] This rate is not low; but the town site is high and far from the intake. The contract was the wisest the municipality could have negotiated at the time. All the streets are supplied with pipes and hydrants wherever required. The revenue of the company from the town amounts to about $30,000. Filtration is now being studied.

In 1892 an important step was made by a loop-line extension of the Montreal Street Railway through the lower half of the town. The service at once stimulated local growth. The contract was for thirty years, co-terminous with that of Montreal and on much the same conditions. The fares are five cents or six tickets for 25 cents, 25 for $1.00; and cheaper tickets 8 for 25 cents, good on week days between the hours of 6 and 8 a.m., 5 and 7 p.m. An unfortunate clause in the contract, which the council then considered itself forced to accept, practically gave the company the power to prevent any rival from laying a line in the upper half of the town while not compelling the company itself to build one there. The inconveniences resulting from this clause, however, are expected to be removed shortly by the building of a branch line now projected by the company. The contract provided for a five-minute service but the town reserved to itself the right to order a more frequent one. The service has in practice been better than contracted for.

The gas, electric and telephone companies of Montreal afford complete services in their lines to all parts of Westmount, and there are three postal deliveries per day. The street lighting is done by contract through open arc lights of nominal 2,000 candle power, costing $90 per year. A five years' renewal contract has just come into force, at the end of which a municipal plant will probably be erected.[4]

[3] In Westmount, to a house paying $250 a year rent, the cost of water is about $13.50. This includes the proprietor's share of $8,500 paid to the company by the municipality as hydrant rentals ($50 per year on 170 hydrants).

[4] By way of contrast it may be mentioned that the price of Montreal's electric lighting under the old contract for that city, which has still two years to run, is $118. The new contract is for five years at $60. Both contracts are now averaged at $88 for the next four years, $60 for three years thereafter with

Important work has been done in providing the town with a well-considered and well-equipped system of roads. Almost the whole of the town is now opened up, the chief part of the streets being macadamized in a very perfect manner. Through the desire to keep the rate of taxation low, no asphalt or other expensive pavements have been laid, although these are being contemplated in some of the older completed sections. The splendid condition of the roads, due to an efficient Road Department, is constantly remarked upon, in comparison with the badly-kept streets of Montreal. The extent of streets is about twenty-two miles, of which eighteen and a half are macadam. The usual width of macadam is twenty-five to forty feet, the usual breadth of streets fifty to seventy-five feet, ordinarily sixty-six feet. The foot-pavements up to the present have been of wood, at the expense of the municipality; but although kept well repaired and renewed it is now conceded that wooden footways will have to be replaced, in the fully developed portions of the town, by granolithic or other pavement of a permanent character. Attention is paid to the laying of grass strips or boulevards for the better appearance of the streets. The annual expenditure on roads is about $11,600.

One of the services most conspicuous in the Road Department is the snow-cleaning of the pavements. For this special work several pieces of machinery have been invented by Mr. G. A. Robertson, the Superintendent of Works. By means of these not only are the road beds kept beautifully ploughed but every footway is cleaned after a storm in time for business men to pass with comfort to their occupations and without special charge. This offers a great contrast to the inefficient system of private cleaning under the Montreal by-laws. The larger city is now copying the Westmount method successfully.

A system of building lines or restrictions compelling erection of houses at certain distances from the street will influence advantageously, as present results indicate, the future appearance of the town, and increase the value of its property. In the upper or hillside half, a by-law, passed upon authority of the

special conditions favouring monopoly; and as the contract permits the company to substitute alternating current, which is much cheaper, the price is really not a low one.

legislature, forbids the erection of rows of houses. This necessitates the building of villas detached or semi-detached. Another by-law regulates the space surrounding a building, to prevent the construction of closely-built flats and tenements.

The parks of Westmount cover twenty-six and a quarter acres. The principal park of sixteen acres lies in the centre of the town. It is pleasantly wooded with a portion of the original forest and is traversed by a picturesque glen. Here are built the library and public hall. There are three small parks on the east, west and front of the mountain, and one small square of about an acre midway between the principal park and the eastern boundary. But twenty-six acres and a quarter are recognized by experts and those interested in Westmount's future to be far too little. It is desirable that while spaces are open and prices of land reasonable the town should show its confidence in the future that awaits it by obtaining still ampler recreation grounds for its present and forthcoming population. The total cost of parks has been $290,000, which represents a most satisfactory investment.

Besides the parks and play-grounds liberally laid out, a special municipal building called Victoria Hall was opened in 1899. It contains a beautiful public hall, a gymnasium, a drill hall, assembly rooms and other accommodation intended to supply as far as possible the equivalent of park advantages during the summer. Public skating-rinks and an open air bath in the glen are additional features. These measures have been successful in keeping the young people in good surroundings and away from questionable attractions. In this connection it may be stated that the town prohibits saloons entirely and no liquors are sold within its borders.

The public health is a remarkable item. The death rate for 1901 is 10.5 per thousand; in 1900 it was 10.7.[6] These figures are all the more surprising when it is considered that the population is practically an urban one and the proportion of young children, judging from the school returns, large. The scavenging is well and promptly attended to, and the spring cleaning

[6] For Ontario and Quebec, by way of contrast, the death rates for 1900 were respectively 12.6 and 19.92, for Montreal 23.04, city of Quebec 23.40, St. Henri 30.4, Ste. Cunegonde 23, Toronto 17.5.

usually takes place about a month earlier than in Montreal. Incineration has been fully discussed. It was tried by contract for six months, but for the present proved too expensive to be continued. A contagious diseases hospital has been decided upon and plans have been considered which are intended to go into operation next summer.

The intellectual recreation of the people has not been overlooked. A beautiful public library was opened in 1899 in the park, the first municipal public library in the province of Quebec. Its reading rooms are public, but the borrowing of books is restricted to families of certified taxpayers. The number of books now amounts to about 3,050, the certified readers about 2,100. The library appropriation this year is $1,800. The cost of the building was provided for in an unusual way: the money is the deposit forfeited by a projected gas company that undertook great things for the town but afterwards amalgamated with the Montreal Gas Company before fulfilling its obligations. The library may therefore be said to be a windfall to the town and a monument to the prudence of the council of that year.

A word as to the financial administration. The financial department was reorganized in January, 1894. It has been the general aim to keep the taxes at not more than half those of the city of Montreal. But it should further be borne in mind that the rate of valuation in Westmount is only about two-thirds of that of Montreal; consequently the ordinary tax rate is really only about one-third. The treatment of special taxes for drainage and street improvements is different in the two places and makes an apparent difference in the tax bills. In Montreal the special taxes are exacted in a lump sum in cash, with sometimes disastrous results to the proprietor. In Westmount the specials are extended over long periods, the original cost being advanced for proprietors out of bonds of the town.[6] Personally I consider the periods much too long. They result to a large degree in assisting speculators rather than proprietors. The worst feature is the swelling of the debt by the advances, and the tendency of spec-

[6] In Montreal the tax rate is one per cent. on full selling value, schools 2½ mills; in Ste. Cunegonde one per cent. on very high valuation—higher than selling value. This does not include school rate and drains which are payable in full in cash. In St. Henri the rate is the same as in Ste. Cunegonde. In Westmount it is 6½ mills on a two-thirds average valuation.

ulators to throw upon their purchasers the burden of the specials, and also to undertake the opening up of too much new property on the strength of costly improvements.

The cost of sewers is charged to fronting proprietors. Payments are spread over forty years at the rate of 4¼ per cent. for interest and 1 per cent. for sinking fund. The town's share for the cross-section of sewers and roads, and exemptions in front of lanes and public property, is levied upon the whole town in forty annual payments at the same rates. Another forty-year tax is for general purposes, 3½ mills on land values. The cost of macadamizing streets is charged to fronting proprietors covering a term of fourteen annual payments, being at the rate of 4½ per cent. sinking fund. Proprietors, however, have the option at any time of commuting the capital cost of street sewers and macadamizing of roads. The school rate is 3¼ mills. The borrowing power is 15 per cent., or about $1,600,000; the gross liabilities are about $1,300,000, of which about one-half ($640,000) has been advanced for proprietors and is thus not properly an indebtedness of the town. The real indebtedness is therefore about $660,000, nearly $300,000 of which has been for parks, the remainder for public works and buildings. The ordinary revenue at 6½ mills is about $70,000.[1]

The police and fire forces, which are combined, consist of ten men. The scavenging department is under the same head and employs five men.

The people of the town, as well as the council, have watched jealously their rights as a municipality, for in some respects Westmount has been the centre of opposition to encroaching corporations. Last spring a considerable agitation originated there and succeeded in arousing the attention of the people of Montreal and other municipalities against the excessive privileges of the Montreal Light, Heat & Power Co. This company

[1] The receipts and expenditures for the year ending October 31st, 1901, are :

Receipts.		Expenditures.	
Ordinary Revenue.....	$69,831.98	Administration Acct.....	$66,379.53
Special Assessments...	51,048.35	Interest on Debentures.....	44,985.00
Sundries.....	1,568.12	Roads	12,454.86
Interest Account.....	809.42	Drainage.....	5,909.39
		Sundries	3,536.56

A portion of Roads and Drainage expenditures is on capital account. The School Commissioners now collect their 3¼ mills separately.

obtained the passage of a bill through the provincial legislature handing over to it, without consent of the municipalities concerned, the most extreme rights of erecting poles and laying conduits *in all the streets of all the municipalities within one hundred miles radius of the city of Montreal.* Westmount, by vigorous action, though too late to prevent the signing of the bill, obtained a formal promise from the Premier to repeal it at the forthcoming meeting of the legislature, and has received ample assurance of support from other municipalities in the demand which will then be made for the fulfilment of that promise. Nor will the people rest until this and similar encroachments upon their rights as citizens have been done away with. They feel that in this matter they are fighting the battle of citizens for the whole Dominion. It was with this battle in mind that the present mayor proposed to his friend, the mayor of Toronto, the forming of the Union of Canadian Municipalities, to which that gentleman, whose sympathies were already aroused on somewhat analogous lines, so cordially responded in the convention convened by him in Toronto in August, 1901. Another question which has sometimes been raised in Westmount is the fear that the legislature may unite the town with Montreal. But he would be a rash politician who would venture to obliterate the liberties of a British city against its will.

Many improvements are contemplated in the immediate future of the city, as it is now about to be called. With its shrewd and well-disposed population and reliable officials it may be expected to continue in the future the progress which it has made up to the present. It has been frequently called a "model town"; but that term can only be relative. The use of such a phrase will but lead the true friend of its administration to look more critically at its imperfections with a view to its improvement. If Westmount deserves praise, so do many other well-governed towns throughout the Dominion, each possessing advantages from which all the rest can learn something.

THE MUNICIPAL GOVERNMENT OF TORONTO

BY

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Toronto, the second city of the Dominion and the capital of the province of Ontario, overlooks Lake Ontario from the north, forty miles from the western end of the lake and nearly opposite the Niagara river, from which it is distant about thirty-three miles. It lies in north lat. 43° 39′, west long. 79° 23′, in a plateau gently ascending from a splendid bay and harbour formed by an island two and one-fifth miles long. The rise of land from the lake front northwards, determining the civic sewage, is from 150 to 170 feet in the first two and a half miles. On either side of the city lie two small rivers, the Humber and the Don, which drain the back country[1].

The homogeneity of the city's population is exceptional. Ninety-eight and a half per cent. are British born; only one-half of one per cent. come from the United States, and but one per cent. from other non-British countries. The intellectual standard of the electorate must also be considered high; while, as is noted later on, there is practically no pauper class. The city itself, in the matter of journalistic and other publications and of educational institutions, is the intellectual centre of the Dominion.

Toronto was not incorporated as a city until 1834. At that date it had a population of 9,252, which has now grown to 220,000. Its present executive consists of a mayor and a

[1]A note on the geology of the district may be added. Pleistocene beds form the real foundations of the city on which the houses are built, and in which excavations for sewers must be made. According to Professor Coleman, of the University of Toronto, these beds include a sheet of tough boulder clay, stratified interglacial sand and gravel, followed by stratified clay and a second sheet of boulder clay. After these were deposited there was a period of high water in the Ontario basin, when the old shore of Lake Iroquois was carved, forming the sloping plain on which most of Toronto rests. The waves of Lake Iroquois cut deeply into the previous deposits, so that the city lies, at some points, on the lower boulder clay, and at others on the thin sheet of sand deposited by the old lake itself. The clay in outlying parts of the city is burned into bricks, and the sand and gravel are excavated for building purposes. Both the Don and the Humber have cut their valleys to base level, and their tributaries have carved out steep-walled and picturesque ravines, so that there is much greater variety in level than visitors to the central parts of the city are apt to think.

council of twenty-four aldermen—four from each of the six wards—all elected annually. The small membership of the council, as already pointed out[2], is a characteristic of Canadian city councils generally. Yet it can hardly be said that the old adage, "Safety lies in numbers," has been disproven. This is especially true when the work of councils prior to 1892 is recalled. The city was then represented by thirty-nine aldermen, three from each of the thirteen wards. The reduction in the number of wards, however, which was an important part of the changes made in that year, has helped much towards weakening the influence of "ward politicians," and has largely checked the personal canvass of obscure candidates. Some students of municipal affairs suggest still fewer wards, even their total abolition, as measures likely to prevent the candidature of inconspicuous men. The wards, it may be worth mentioning, run north and south from the waterfront in parallel divisions, so that each ward embraces both industrial and residential districts. The population and assessment in these divisions vary widely. Ward number one shows an assessed valuation in 1900 of $6,587,000 for a population of 18,730; ward number three, $61,932,000 for 35,530; ward number six, $11,739,000 for 25,450.

In the past the council resembled the English model more closely than at present. From 1834 to 1866 it was made up as in England of aldermen and common-councilmen sitting together. Down to 1859, and again from 1867 to 1873, the mayor was chosen by the council from among the aldermen. The council's term of office has been usually one year; but between 1838 and 1849 it was two years, one-half of the aldermen retiring annually; from 1866 to 1873 three years, with a corresponding scheme of re-election. A two-year term for aldermen, one-half of them retiring yearly, with a like term for mayor, is one of the desirable and anticipated reforms. The school trustees have long been elected for two-year terms, one-half seeking re-election each January.

Reference has been made already[3] to the board of control. It

[2] *Vid. supra*, p. 14 note 20.
[3] *Vid. supra*, p. 14.

remains to say that its constitution is reminiscent of United States state and federal organizations. A governor's executive in the United States, for example, is elected by the people without regard to the governor; here the controllers are elected by the council. The President's Cabinet again does not necessarily work harmoniously with the chairmen of Congressional committees; the board of control on its part frequently crosses swords with the aldermanic chairmen of committees. The board has been only partially successful, in that its position has not yet been defined with sufficient clearness to fix responsibility for civic work. The abolition of the committees of council or a radical reduction of their duties seems almost imperative if the desired centralization of responsibility is to be attained. The probable election of controllers by general vote of the ratepayers should help materially in this direction.

The salary of the Mayor is $4,000, with $700 additional as controller. An alderman receives $300, an additional $100 if chairman of a standing committee, or a further $700 if a member of the board of control—the "Government," as it has been dubbed. A fine of two dollars is levied on any member not attending a meeting of the council, and a like fine on a chairman absent from any meeting of his committee. The salaries paid to the council in 1900 amounted to $15,051. Two years ago a plebiscite was taken as to whether these salaries should not be abolished. The verdict was in the affirmative by a heavy majority. But no action followed, the aldermen arguing that the vote, by not allowing of an intelligent alternative, did not register public opinion.

A feature of municipal Toronto is the number of local boards sharing in the government of the city, and the correspondingly limited patronage of the aldermen. Since 1876 provincial liquor license commissioners have granted the hotel licenses, the number of which is fixed locally by by-law. Since 1887 the number of hotel, exclusive of club, licenses has stood at 150. Police commissioners—mayor, police magistrate, who is an appointee of the council holding office practically for life, and judge of the county court—decide on the candidates for the police force. Recently the effort was made to make the selection of

firemen, now resting with the fire-chief, more independent of aldermanic influence. In some Canadian cities, Montreal for instance, the firemen have no civic vote; in Toronto all civic employees may vote. A board of five harbour commissioners, two appointed by the council, two by the local board of trade, the fifth by the Dominion Government, has charge of the harbour. The docks, which are partly private, partly city property, lie beyond its jurisdiction. Educational matters are cared for by four separate boards: a high school board nominated practically by the city council; for Protestants a public school board, for Roman Catholics a separate school board, elected by the respective rate-payers; and a technical school board, consisting of representatives of the council and of various industrial and trade associations. A special board of nine has charge of the public library. It is composed of the mayor, three nominees of the council who must not be aldermen, three nominees of the public,and two of the separate, school board. From 1872 to 1878 the city water-works were under the management of four water commissioners elected every two years by the people. The large annual industrial exhibition is under the direction of a huge board to which the council sends representatives. Finally the Court of Revision, a special board of three experts appointed by the council, decides all assessment appeals. Their decision is, however, subject to review by the judge of the county court,or, if the assessment involved amounts to $2,000, to the county judge and an associate judge, etc. All civic appointments, moreover—for which as yet no civil service provision exists—are permanent during satisfactory service. Junior appointments are made by the council on recommendation by the departmental head and nomination by the board of control. More important positions are filled by the council. In this way the development of a spoils system has been in large measure prevented. The significant point, however, is that the council is only in part responsible for the government of the city. A fairly large percentage of the city's expenditure is quite beyond its control. The civic expenditure on education for 1900, for example, was $807,180; while the public library board received by virtue of provincial statute ¼ of a mill, which on

an assessment of $140,000,000 is approximately $35,000.[4] It is worth noting that while the city's assessment between 1880 and 1900 increased 150 per cent., the total amount expended under the council's control advanced only 110 per cent. On the other hand the expenditures of outside corporations or boards receiving civic appropriations show an increase of 399 per cent.($251,000 to $1,003,000). For public schools the increase was 445 per cent. ($103,500 to $564,000), for separate schools 273 per cent., for high schools 1450 per cent. ($3,700 to $57,000). Last year the council took the precaution to have the school rate noted separately on the tax-sheets.

An interesting dispute between the public school board and the council is now before the courts as to the council's right of controlling the board's expenditures. There is no doubt whatever as to the desirability of some such control. Provincial legislation in this direction will probably be secured. It is open to question whether city educational matters should not be placed directly under the control of representative educational commissioners appointed by the council.

The council holds its regular meetings on alternate Mondays. Most of its work is done in committee. There are at present, besides the board of control, five standing committees of from five to twelve members each, viz., legislation and reception, works, property, fire and light, parks and exhibition. A special committee, the local board of health, acts in conjunction with

[4] The public library, the most important of its kind in Canada, dates from 1st January, 1883. See the *Free Libraries Act*, 45 Vic., ch. 22 (1882), amended and consolidated in 58 Vic., ch. 45 (1895). It is the second oldest free library in the Dominion, that of Guelph antedating it by a few days. According to the report of the Minister of Education there were in 1900, 418 public libraries in Ontario. Their growth is evident from the following figures:

Year.	Institutions reporting.	No. of Volumes.	Volumes issued.	Assets.
1883	93	154,093	251,920	$225,190
1893	255	510,326	1,415,867	685,412
1899	371	918,022	2,042,904	966,667

Yet it is alleged by a competent authority that throughout the province the municipal councils have been, as a rule, quite apathetic towards their libraries. A library board is prohibited from spending over $2,000 on land and buildings in any one year without authority of the council. Its civic receipts are limited to ¼ of a mill in cities of 100,000 population, in other cities of the province to ½ of a mill. The Toronto library has now about 125,000 volumes and manuscripts, and assets valued at approximately $265,000. See further James Bain, Jr., *Public Libraries in Canada* in Proceedings of Canadian Institute (Toronto) for 1897.

the city's medical health officer. Supported by a staff of inspectors this officer looks after the general sanitary conditions of the city, the destitute poor, and similar matters.[5] His committee reports annually to the provincial board of health, which has a general supervisory authority over all local boards of health.

Administrative work falls to seven civic departments, each under a special head: the departments of the treasurer, engineer, assessment commissioner, commissioner (scavenging, etc.), street commissioner, medical health officer, and solicitor. A definite division of duties and responsibilities between these departmental officers is being gradually worked out. In the fact that this division has not yet been effected lies perhaps the chief weakness of the civic administration of Toronto.

To secure departmental responsibility the tenure of departmental heads should be made secure from temporary local influences. From this point of view the power of the board of control to dismiss summarily any departmental officer is open to criticism. Greater professional responsibility on the part of the chief officials would have, at the same time, a salutary influence on the range of aldermanic duties, which is at present too wide.

Four civic franchises—the street railway service, the gas and electric lighting, and the telephone service—are let to private corporations. The water supply alone is managed directly by the city.

As regards the street railway service it is to be noted that the absence of steep gradients in the city secures its operation at a minimum cost. The extensive area of the city—17.7 square miles—and the dependence of many sections upon the street railway for transport are further points of importance.[6] The present Toronto Street Railway Company was formed in 1891[7] when it secured an exclusive monopoly of the service for thirty years. It undertook to replace the horse-car by an electric service within

[5] Cf. on such matters Consolidated By-Laws of the City of Toronto, decennial publication (1901).

[6] A tendency towards concentration of population is now becoming noticeable; for example, in the erection for the first time of large apartment houses.

[7] Incorporated 55 Vic., ch. 99. It is just forty years since the first street car service was established in Toronto. See 24 Vic., ch. 83. In an unpublished MS. on the Toronto street railway Professor Mavor shows that it was the intention of the city from the beginning to exercise control over the company.

one year,and to pay the city eight per cent. on gross receipts up to $1,000,000, ten per cent. on all between $1,000,000 and $1,500,000, and so on in an ascending scale up to $3,000,000, when twenty per cent. on all above that amount should be the city's share. It agreed further to pay the city $800 per annum for each mile of single track during the term of contract. The franchise has proved for the company an exceptionally remunerative investment. The $1,500,000 paid for the old horse-car plant has grown until now the capital of the company is practically $9,000,000, $3,000,000 being in bonds. In 1891 there were 68 miles of track, exclusive of shed tracks; in 1901, 85 miles. The city's percentages have advanced steadily from $65,239 in 1892 to $127,128 in 1900. Besides the ordinary five cent cash fares, six tickets are sold for twenty-five cents, twenty-five for one dollar; special tickets are provided for the hours 5.30 to 8 a.m., 5 to 6.30 p.m., at the rate of eight for twenty-five cents. School children's tickets are sold at ten, Sunday tickets at seven, for twenty-five cents. A satisfactory system of transfers from any one part of the city to any other is arranged for. The railway bed is a fairly good one, the equipment still better. The only important complaint lodged against the company is that the number of cars is inadequate, especially during the busy hours; additional lines are also called for. The service, though good, would have been much more popular if the company had been less unconciliating in its general attitude, and more active in developing suburban traffic. In 1897[8] the company obtained power to establish a service with the island, which forms the breakwater for the harbour, subject to agreement with the Governor-General-in-Council, the federal Government having jurisdiction over harbours. The carrying out of this extension is now being considered.

One defect in the street railway contract is its neglect to clothe the city engineer with power to enforce his orders without appeal to the courts. Another omission is the failure to provide for entrance to the city market for suburban electric lines. There are already three such lines in operation, two of which seem to have come already to an understanding with the

[8] 60 Vic., ch. 81.

Toronto Railway Company. The city has now before it this problem of suburban electric railways, as well as that of the "portage line" from Georgian bay. The latter project, if carried out—which, however, is not probable for some time at least —would make Toronto the transhipping point of a much larger share of western traffic than at present. In connection with the development of suburban traffic it is to be noted that the gauge of the street railway is wider than the standard for steam railways.[9] This allows the city to consider whether it might not itself profitably control the entrance of suburban freight into the city market, particularly as there happens to be a derelict belt line that could be readily taken advantage of.

Almost immediately after the street railway contract was signed, an agreement was entered into with the Bell Telephone Company for a telephone service at the rate of $45 a year for a business and $25 for a residence telephone. The company was given a monopoly of the service in Toronto for five years, and in return was to pay the city five per cent. of its gross earnings. Up to Sept. 30th, 1896, when the agreement expired, the city had received in percentages $36,606. Since then no percentages have been paid. At present the company is charging an extra five dollars for installing the most modern instruments, has advanced the long distance rates by shortening the time limit, and appears to be considering a new scheme of charges according to city districts. It is time for the council to come to terms with the company, to whom a franchise for a term of years would be a valuable asset. A new company looking for the franchise and promising lower rates and prompter service is now seeking incorporation. Public opinion, however, as recently evidenced in Ottawa, seems to incline strongly to municipal ownership, or, if it could be managed, to provincial ownership. The city engineer has estimated the cost of installing a plant for 10,000 subscribers in Toronto at approximately $1,200,000, and the annual outlay for operating, inclusive of a five per cent. allowance for depreciation, at $205,000. The Bell Company, at the beginning of 1901, according to the city engineer, had

[9] The street railway has a 4′ 10⅞″ gauge, as against a 4′ 8½″ gauge of the steam railroad.

7,145 instruments in use, 10,894 miles of overhead, 9,438 miles of underground wires, 148,756 feet of underground conduits, and 592,436 feet of ducts.

For several years past the relations of the city with the Consumers' Gas Company have been exciting special interest. The company was incorporated in 1847[10], and has a perpetual charter and a present monopoly of the supply of gas. Its yearly dividend was limited by statute to ten per cent. In 1887 the company applied to Parliament to increase its capital from $1,000,000 to $2,000,000. A compromise had first to be arranged with the city, which saw in the move an attempt to water the stock, and in this way circumvent the statute. A renewal fund of five per cent. on plant and buildings was provided for. After meeting these renewal charges, the ten per cent. dividend and fees to the president and directors, which were not to exceed $9,000, any surplus remaining was to be carried to a special surplus fund. Whenever the amount of this fund was equal to five cents per thousand cubic feet on the quantity of gas sold during the preceding year the price of gas was to be reduced for the current year at least five cents per thousand feet to all consumers. An audit by the city was also provided for[11]. But events have shown how difficult it is adequately to control such matters even with most careful legislation. It is alleged on the part of the city that part of the profits have been spent in lands, buildings and plant, and that although the maximum price of gas was then $1.12½ and is now 90 cents the reduction should have been greater. A plebiscite was taken in January, 1901, favourable to the acquisition of the gas plant by the city. But in view of the several large undertakings before the city no action has been taken. After long negotiations a compromise is once again in prospect, the gas rate to be lowered a further ten cents, the mayor to be given a seat on the company's board, and the city to have access to the company's books. The city in return is to waive all objections to the company's past financial operations. The present newly-elected council, however, appears desirous

[10] 11 Vic. ch. 14. In 1848 the price of gas was $5.00 per thousand feet.

[11] 50 Vic. ch. 85; by an Act of 1877 (40 Vic. ch. 39, s. 14) provision was made for the purchase of the Gas Company's works, on which, however, no action was taken.

of once more re-opening the gas agreement. But "eighty cent gas" is, for the present, not a bad bargain for Toronto when cost of coal transportation is taken into account. It is certainly questionable whether the purchase of the gas plant by the city would make a good investment in face of the promising future for electricity.[12] Even granted its desirability from the consumers' point of view, the pressing problems of sewage disposal, water-front, island, parks and Don improvement and telephone service will probably stay the city's hand. The company has 251 miles of mains, and 27,000 consumers. Its plant is probably worth between four and five million dollars.

The actual street gas lighting is let to the Carbon Light and Power Company, of Jersey City, N.Y., which purchases the gas from the Consumers' Gas Company. The lighting contract is for five years from January 1st, 1901. Each gas lamp is to have a burner with mantle and reflector, and to give an illuminating power of eighty candles. The price is $31 per annum per lamp for 1,000 situated within 66 feet of a gas main, and $33 for each additional lamp, and for all at a greater distance.

In the matter of electric power and lighting the Incandescent Light Company of Toronto has a permanent franchise over the city streets for underground wires and conduits[13]. It has about 100,000 private business incandescent lights. Another company, however, the Toronto Electric Light Company, has charge of the electric lighting of the streets for the next five years at the rate of $74.82½ per arc light. The power consumed by a lamp must not average less than 432 true watts in any test continued for five minutes. If the company amalgamates with or enters into any pooling arrangements with the Consumers' Gas Company, the contract shall be void. It owns 1,204 street arc lights and 500 business arc lights, 960 miles of overhead and underground wire, and 50 miles of underground conduit.

The water works came under the ownership of the city in 1872, the existing private plant[14] being taken over at a cost

[12] For the conditions governing the acquisition or construction of gas and electric plants by a municipality, cf. *Municipal Amendment Act*, 1899, sec. 35. "Municipal ownership" is a cry now ringing in the ears of Canadian municipalities.

[13] Incorporated originally in 1889.

[14] The Furness Company's.

of $220,000. After six years of management by the board of four water commissioners already mentioned they have been in charge of the city engineer[15]. With regard to water works revenue, the water rentals during 1897 covered all departmental expenses, as well as interest and sinking fund charges on the water works debentures. In the latter year there was a net surplus of $39,728. For the period 1871-1899, however, the expenditure exceeded ordinary receipts and debenture sales by $54,217. In answer to the plea for cheaper water which the temporary surplus called forth, rates in 1900 were cut in half, though they were then probably as low as those of any important city in America. The reduction is equivalent to a decrease in revenue of about $130,000, or about one and one-eighth mills. There is a growing opinion that the action of the council was precipitate, and should be reconsidered[16].

The maximum legitimate daily consumption of water has been estimated at fifty gallons per person[17]. In Manchester, England, the average daily consumption per head is 24, in Liverpool 27, Dublin 55, Glasgow 64 gallons. In Canadian and American cities the consumption is higher. In Toronto, Kingston and London (Ontario) it reaches 100 gallons, in Montreal it is less than 80, in New York and Boston 92, in Rochester only 48, Philadelphia 143, Buffalo 217, etc[18]. The experiences of Detroit and Atlanta, which have introduced the meter system, are instructive. In Atlanta in 1885, when this system was initiated, six million gallons a day were being pumped, but the supply was still insufficient. When the meters were installed the quantity consumed is reported to have actually fallen to one-

[15] The source of water supply has been changed from the bay to the lake, and great extensions made in the service. At present there are three pumping stations, and 260 miles of water mains. In some out-lying districts of the city it is alleged that the fire pressure is inadequate; further, that the smallness of some of the mains leads to considerable frictional loss in power.

[16] The water works revenue in 1900 was $327,000, against operating expenses of $421,000. Of the latter $55,398 represented the cost of water for fire purposes, sewers, street watering and city property.

[17] See *The Waste and Consumption of Water*, by Mr. G. F. Williams, of the Detroit Water Works, in Michigan Engineers' Annual, 1895. Similar estimate in report of Superintendent and Engineer of Cincinnati Water Works, September, 1892.

[18] Cf. Supplement to Water and Gas Review, Statistics and Data of the Water Works of 194 Cities and Towns in the U. S. and British Provinces. New York, 1894.

fourth the previous quantity.[19] Control by meter, it is held, does not restrict legitimate consumption; its great service is in checking waste of water through defective plumbing, running taps and the like; in affording a fairer basis for water charges, as well as in allowing of many economies in the general management. The occasional presence of sand in the water has been alleged to be a barrier to the adoption of a meter system in Toronto. The city engineer and the water works superintendent, however, hold to the contrary. They urge that if more careful water and plumbing inspection were undertaken by the city and adopted for all business establishments the necessity of additional pumps and the building of a second reservoir could be postponed for many years to come.[20]

The general municipal services, with the exception of sewage disposal, are well organized and carried out. At present the main sewers empty into the lake and bay. But a change is contemplated in the near future. The city engineer has given a provisional estimate for disposing of sewage through filtration at $1,734,000, by precipitation at $1,540,000. Garbage is collected semi-weekly and disposed of in two crematories. All the plant for street cleaning is owned and operated by the city. The police force is a splendid body of 291 officers and men. By reason of the orderly character of the city's population, this small number is able to cover the extensive patrol area of upwards of 17 square miles with fair satisfaction. The fire brigade has 185 officers and men. There are 3,066 fire hydrants, sixteen fire stations and five steam fire-engines in the city.

At the close of 1900 there were 260 miles of roadway in the city, 183 of which were paved, 86 with cedar blocks, 48 with macadam, 31 with asphalt, 11 with brick. The foot-pavements amounted to 430 miles, 26 being concrete, 2½ brick, 2 stone flag, the rest wood. The sewer mileage is 232½. For the laying of roadways and pavements tenders are received both from contractors and the engineer's department. In 1900 on road-

[19] Water and Gas Review, August, 1893.

[20] Of the 38,000 water takers 1,700 are metered. The revenue by meter rate in 1900 was $115,000, by schedule rate $156,000.

ways constructed by day-labour under the city engineer there was a saving of $4,123 as compared with contractors' tenders, and on pavements one of $1,086. As regards material for roadways, smooth stone setts and prepared wooden blocks on concrete have not been used as widely as the experience of other cities perhaps warrants.

Between 1885 and 1892 Toronto passed through an extensive "boom," when many miles of new streets were injudiciously laid out. Extensive public works were also begun. Among these were the straightening of the Don river, the more active improvement of the bay front, new municipal buildings, and the Rosedale and Garrison Creek sewers. The cost of the Don improvement was estimated at $300,000, but it has already exceeded $750,000. The undertaking will be completed with the co-operation of the Dominion Government, by cutting an outlet for the river into Lake Ontario, in place of allowing the river to empty into the bay. Through this work a considerable area of marshy land will be reclaimed. For the sewers mentioned $305,000 in debentures was issued during the years 1885-92, for the water front $300,000 in 1892, in addition to outstanding debentures amounting to $669,000, and $56,000 in 1896. The municipal buildings for county and city jointly were to have cost $800,000, but the plan developed until the outlay amounts to upwards of $2,400,000, so that in an unpremeditated way Toronto has become possessed of the finest municipal building in Canada, and in company with Philadelphia, Chicago and Pittsburg, of one of the most imposing in America.

The streets of Toronto, as of practically all Canadian cities, continue to be disfigured by numerous telegraph and electric lines. The power of the municipalities to compel the companies to place these wires under ground turns in part on the question whether such action might be construed as an interference with trade and commerce, which lies within federal jurisdiction. In Toronto in 1897 the engineer attempted to bring the companies together so as to avoid the duplication of pole lines, but failed. He expressed the view that by an arrangement between the electrical companies one-half of the poles in the city could be abolished; that existing arrangements result

in the principal streets being constantly torn up; and that the time has arrived when no privileges of this kind should be permitted unless the city receive some return for permission to use the streets.

The city's budget is somewhat larger than that of the province of Ontario. The gross disbursements of city and province respectively for three years, 1898-1900, averaged $7,779,227 and $5,797,472. Over half of the outlay on the part of the city in 1900 was in connection with the civic debt. The most important items of expenditure were as follows:—

Bank advances	$ 289,789
Debentures redeemed	1,064,450
Interest	890,300
Sinking fund investments (in 1899 $1,267,800)	91,700
Works department	1,006,000
Police	259,000
Waterworks	173,500
Fire department	182,000
Schools	801,180
Municipal salaries	64,530

The large outlay in sinking funds in accordance with the provisions of the Municipal Act,—about $3.25 per head of population—will be noted. Toronto in this respect forms a strong contrast with Montreal which makes practically no direct provision for redemption of debt.

The actual receipts in 1900 exclusive of contractors' deposits and police benefit fund came to $5,397,664, of which taxes and tax sale redemptions made up 55 per cent. Other important sources were as follows:

Waterworks (gross)	$340,000	Provincial school grant	$80,700	
Rentals from city property	109,000	Sinking fund receipts and expenditures.	381,000	9 p. c.
St. Ry. percentages	191,000	14 p.c. Debentures sold	91,700	
Market fees	37,000			
[21] Licenses	65,000			
Works department	34,000			

The finances are well administered and the indebtedness is not high. The bonded and authorized debt on 31st

[21] Of this sum $33,844 was from liquor licenses. The provincial liquor license revenue from Toronto for 1900-01 was $57,542.

December, 1901, was $21,499,022, or a net debt of $15,975,339[22]. This represents a decrease of $309,970 over 1900. Of the net debt $9,065,000 is revenue producing—waterworks, street railway pavement loan, local improvement loan, etc. The value of civic property and other assets exclusive of the public works and services is estimated by the city treasurer at $13,000,000. About ten millions of debentures have been issued at 3½ per cent., and usually command a premium in London. During the next three and a half years $1,500,000 of 6 per cent. debentures will mature and be paid off or converted.

Expenditures on some of the larger undertakings have been as follows: water works, $3,876,000; new municipal buildings, $2,400,000; water front and similar improvements, $1,958,000; schools, $1,763,000; railway aid, $1,144,000; city's proportion of local improvements, $2,868,000—these payments began in 1881; sewers, $364,000; general city purposes, $1,023,000. The remainder is divided between outlays for roads, bridges and parks, jails, markets, drill hall, public library, and isolation hospital, in all $1,370,000.

Taxes are levied on both realty and personalty. Income up to $700, and from any other source than personal earnings up to $400 is exempt, as is personalty under $100 in value. But no person is allowed a higher exemption on income than $700. All males twenty-one years of age not otherwise assessed pay an annual poll or "statute-labour" tax of $1.00. For local improvements—roads and pavements, sewers and sodding—two-thirds of the cost are levied on the property directly benefiting. Franchise rates are not taxed, though the question is under discussion.

The assessment is carried out by a board of six assessors under the direction of the assessment commissioner. The assessors cover the city ward by ward between April and October. Work-

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[22] General city debt $14,772,201
City's share of local improvement 2,867,962
Ratepayer's share of local improvement 3,858,859
$21,499,022
Less sinking funds on hand 5,523,683
Net debt, 31st Dec., 1901 ..... $15,975,339

ing together they are able to secure fair uniformity in assessment. The court of revision sits each month to hear appeals from the various wards in succession. This method represents a great improvement on the one followed down to a few years ago when an assessor was given charge of a complete ward and appeals were heard in one continuous sitting in October.

Part of the personalty revenue that formerly came to the city has been recently transferred to the provincial treasury.[23] Each Ontario municipality, to use the words of the Act, in which the head office of an insurance, loan or trust company is situated may not assess such company for income derived in localities lying beyond its limits. In this way a considerable revenue of the companies largely escapes taxation[24]. Drastic changes in the system of taxation have recently been suggested at the sittings of the Ontario Assessment Commission, the report of which is expected shortly. The more moderate taxing of wholesale warehouses to check their removal to seaport cities, and the sharper assessment of departmental stores have been the chief occasions.

In place of the personalty tax a business tax after the model of the one in force in Montreal was advocated by the Municipal Committee of the Board of Trade. This proposal was made as far back as 1891, when a special committee of the city council was struck to take charge of the matter. Legislative permission to introduce the tax was then obtained (55 Vic. ch. 48). The Montreal business tax is a levy "on all trades, manufactures, financial or commercial institutions, premises occupied or warehouses or storehouses, occupations, arts, professions or means of profit or livelihood carried on or exercised by any person or persons in the city." It is not to exceed 7½ per cent. of the annual value of the premises in which such trades, etc., are fol-

[23] 62 Vic. ch. 8 (1899). This corporation tax is the second step towards a system of direct taxation for Ontario, the first being the Succession Duties Act of 1892 (55 Vic. ch. 6). At the time of confederation it was thought that the provincial crown lands and licenses and other incidental revenue together with the federal subsidies then contracted for would amply provide for provincial expenditure. Ontario as the wealthiest province has been the last definitely to resort to direct taxation.

[24] See Interim Report of the Ontario Assessment Commission (Toronto, 1901), Appendices Nos. 23 and 25.

lowed. But there is a supplementary scheme of specific charges or licenses.[25] For 1900 the revenue from such business and personal taxes in Montreal was $264,407, or over eight per cent. of the total income of the city. A short time ago the assessment department in Toronto made a calculation of the effect of a like business tax and found, as was to be anticipated, that no constant relation existed between rental of business quarters and volume of business transacted; that the large establishments would almost invariably be benefited at the expense of the smaller. As a matter of fact the business tax has not been regarded as perfectly successful in Montreal. Three years ago opposition to it in Montreal led to a deputation being sent to inquire into the system of Toronto. On this matter as well as on the various questions affecting municipal taxation the report of the Assessment Commission is being awaited with general interest.

In 1896 the assessment commissioner presented two suggestions to the executive committee of the council on the taxation of departmental stores. The first was for "a well-digested scheme of a license on a graduated scale on each department; that is, increasing the tax on each separate business carried on in the same building." The second was more practicable, "a percentage on the gross intake, say, for instance, the one-half of one per cent." This suggestion resembles the "Turnover Tax" proposed by the Retail Merchants' Association recently incorporated; many wholesale houses come within this class.[26]

A modification of the local improvement (betterment) tax has

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[25] The legal maximum for some of the most important subjects of licenses is as follows: Horses $10 and vehicles $15 and $25; milkmen and bakers, $10; carters or hackmen, $15; stockbrokers, $400 to $600; financial agents, $100, and money lenders, $50; insurance companies, marine, $100; life, $200; fire, $400; banks, $400-$600; detective agencies, $100 and each private constable $5; brewers and distillers, 15 and 20 per cent. of the value of the premises occupied; lottery companies, $1,000, and every person offering lottery tickets for sale, $10. Besides these there are the usual license fees for taverns, auctioneers and the like.

[26] Under a system adopted in France in 1880 a tax of twenty-five francs ($4.82) was imposed for every employee, and one-tenth of the rentable value of the premises occupied. These rates were later on doubled for all stores in which the number of employees exceeded 200, and trebled where there were more than 1,000. In 1889 the tax on the largest class of departmental stores was reduced and on the smaller ones, which have less than 200 employees, increased. Report of U.S. Consul General of Berlin, noted in Municipal Affairs, June 1899, pp. 365-366.

also been urged. The suggested changes imply that the city should bear a heavier share for works of permanent and of general importance. A still further change is necessary to empower the council under certain circumstances to decide whether or not local improvements shall be undertaken. Local improvement rates are fixed according to cost. But the Dominion statute relating to the Don river improvement has the exceptional reading "according to the benefit" received by the adjoining properties. Partly because of the difficulty in interpreting this phrase no attempt was made to levy a rate under this statute until the present year. As regards the poll-tax, the high cost of collection and other considerations suggest the advisability of raising it to two or three dollars.

In the recent history of civic taxation an interesting chapter is the treatment of factories. In their ambition to advance local interests many municipalities throughout the province have been tendering bonuses in almost all conceivable forms to any corporate or single manufacturer establishing a factory within their limits. Even some cities have entered the lists. In other provinces Montreal is a notable exception in refusing to grant special favours to city manufacturers. In Toronto much city property suitable for factory sites has been rented at nominal rates. Factories establishing themselves there are given full tax exemption for the first ten years; and by By-law 3071, known as the Bell by-law, in force from the beginning of 1893, and now about to expire, the exemption of machinery and tools has been extended to all manufactures. The result is the tendency to treat factories almost as a class apart. Opposition to unequal taxation of rival houses might conceivably lead to all factories in cities being exempted entirely from taxation, or to the practice of bonusing being abandoned. The case of the Sunlight Soap Company, which has lately established a branch factory in Toronto, is an instance of the successful opposition which special consideration to one firm may arouse on the part of local competitors[37]. An amendment to the Municipal Act in 1899, known as the "Conmee Bill", has, however, made it next to impossible for

[37] The exemption promised this company on establishing its branch in Toronto had to be extended to all other soap factories in the city.

the larger cities to continue the practice of direct exemption by requiring first the consent "of two-thirds of all the electors on the voters' list, as well as of a majority of the electors voting on the by-law." Doubtless ways can be found, if necessary, to surmount the difficulties of the case. The exemption at least of factory machinery from the general civic rate seems to be in the permanent interest of the city.

In 1900 the tax exemptions on real property were valued at $23,223,000, in Montreal for the same year at $37,833,275. In the case of Toronto civic grants to hospitals and other charities are equivalent to additional exemptions. The question of tax exemptions has been for a number of years the occasion of a small annual convention of civic officials and representatives. The exemption of church property, amounting to upwards of $5,000,000, might advisedly be restricted to an amount proportionate to the extent or value of the buildings erected upon it. At present all secular property which yields a rent must bear its quota of taxation.

During the past ten years the general tax rate has fluctuated between 14½ (1892) and 19½ (1900) mills on the dollar. The levy for the past two years has been higher through the scrap-iron assessment and the reduced water charges, together equivalent to over two mills.

In comparison with the universal suffrage of American cities, the suffrage in Toronto, as in Canadian cities generally, appears limited. To qualify as a voter in a city of Ontario one must be a freeholder or tenant of property rated at $400, or be assessed for an annual income of $400. The first $700 of income, if one so elects, is exempt. This means that one is expected to have an income of at least $1,100 to become a voter if not owning or holding property. But as a matter of fact those excluded from voting are few in number, the restriction operating chiefly against newcomers of various classes and nationalities who have little ground for interest in civic affairs. On money by-laws only property-holders may vote. It is interesting to note the predominance of the small property-holders in the elections. The reconstitution of many businesses into joint stock companies, to which no votes are at present allowed, has been the means of

disenfranchising wholly or in part many people who should possess the privilege of municipal voting. A reform in the franchise Act is called for to meet this new condition of affairs.

The property qualification for an alderman is $2,000 leasehold or $1,000 freehold, over and above encumbrances. In the absence of party politics in the elections, "lodge" influence often plays a leading part. An alderman belonging to several fraternal organizations is known as a "joiner." Although any prominent citizen seeking municipal honours is almost certain of election, the absence is felt yearly of some reputable civic association to bring out and support desirable candidates.

In its charitable work Toronto, as already remarked, is favoured in having practically no pauper class, largely owing to the extremely small proportion of foreigners within the city. Most of the philanthropic work has to do with the very young and the aged. Many of the charities are, of course, rather provincial than local. The following summary of institutions receiving provincial recognition is condensed from the report of the provincial Inspector of Prisons and Public Charities for 1900.

Class of Institution and Number Belonging to Each Class.	No. of Inmates, 30th Sept., 1900.	Total Expenditure 1900.
32 Orphanages in Ontario.....	1,832	$106,328
10 of these in Toronto.....	840	56,416
41 Refuges	2,401	234,603
11 of these in Toronto.....	1,020	104,425
52 Hospitals.....	2,263	570,150
6 of them in Toronto.....	700	185,372
Total for the province of Ontario	6,496	911,081
Total for Toronto.....	2,560	346,213

This report, however, takes no notice of purely local institutions and organizations of which one finds a considerable, in some branches an almost excessive number. In 1900 the city's grants to homes and hospitals amounted to $44,182.

Toronto with its splendid harbour, its lake situation and park-like streets is already a fine city; and its future should be brilliant artistically if its many possibilities are utilized. A story is told of a certain southern general who surveyed the world on a map and concluded that here was a handsome city with green gardens stretching down to a sparkling lake. With his numer-

ous family he would hie him hither. But in the place of the enchanted gardens was a grimy railway track and in place of the sparkling waters a sewer. Toronto's drives and parks and water front have, however, received some attention, though as regards the first two no broad plan looking to the future has been as yet conceived. A step forward was the establishment in 1897 of the Guild of Civic Art with an advisory board of six professional men and twelve lay members,[28] while local architectural societies are taking a growing interest in municipal beautification. Such organizations through fostering a wider interest in municipal affairs and a more lively civic pride are strong allies of good city government. For artistic municipal and private structures, broad and convenient streets, well-planned bridges, parks and drives manifestly appeal to all classes.[29] From this standpoint the importance of what has been somewhat inaptly called municipal art in the broad sense of civic beautification is accordingly worth more than passing consideration.

The tendency for the residential portions of cities to grow westward, which Toronto illustrates, will serve to emphasize the point. People prefer sunlight and fresh breezes. In the morning they rise and go towards the sun, and in the evening they leave their work and follow the last light of the day. Moreover throughout the temperate zones the friendly winds are prevalently from the west. The air to the west of a town will accordingly be purer than to the immediate east, and incidentally protection from the east winds will be gained. Evidently the demand for pleasant home surroundings is a permanent force in civic life.[30] The conclusion is not remote that the so-called municipal art

[28] In its composite organization the guild combines the characteristics of the Municipal Art Society of New York with its lay, and of the New York Art Federation with its professional membership.

[29] In certain cities of the United States the sanctity of flowers and trees at the hands of the general public and the care taken of squirrels and other animals living in the parks are evidence of both civic pride and a valuable moral quality. In Toronto the arbor days at the public schools and kindred object lessons should help towards like results. Toronto's many opportunities for beautifying certain spots throughout the city by the planting of shrubs and vines and flower beds has been, up to the present, largely neglected.

[30] Cf. also Ch. Guyau, *L'Art au point de vue sociologique* (Paris 1899), and Robinson, The Improvement of Towns and Cities (New York, 1901). It is an interesting sight to notice how eagerly the shop hands monopolize the windows of picture stores along the streets of Toronto during the noon hours.

movement when intelligently directed may be made an extremely useful handmaid to city government.

Complaints have been made of apathy on the part of some of the most intelligent classes of citizens in Toronto towards their city government.[31] The complaints are unfortunately as well founded as they are apparently common to all or nearly all cities of the new world. This apathy is the municipal malady of America. The counter attractions of national and provincial politics, particularly in rapidly developing and in young countries and the absorption of people in business naturally explain it in part. General interest in municipal affairs seems, however, to be slowly rising in Toronto as well as in many other towns and cities throughout Canada.

[31] For example, for a number of years past all the money by-laws submitted to the ratepayers at the January elections have been carried, and all submitted at other times have been defeated.

APPENDIX

SOME PUBLICATIONS REFERRING TO CANADIAN MUNICIPAL GOVERNMENT, COMPILED BY S. MORLEY WICKETT

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MUNICIPAL GOVERNMENT IN ONTARIO
BY ADAM SHORTT

MUNICIPAL ORGANIZATION IN ONTARIO
BY K. W. MCKAY

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PREFATORY NOTE

The following articles bearing on the Province of Ontario continue the study of Canadian Municipal Government begun last year. Especially in Ontario discussion of municipal organization, methods of taxation and control of private corporations has served to awaken renewed interest in local affairs. The opening historical article is from the pen of Mr. Adam Shortt, M.A., Professor of Political Economy and Constitutional History, Queen's University, Kingston. The next paper, giving a survey of present municipal organization, is contributed by Mr. K. W. McKay, Editor of the *Municipal World*, St. Thomas, and Secretary of the Ontario Assessment Commission, 1902. The Bibliography has been amplified and brought down to date.

S. MORLEY WICKETT.

THE UNIVERSITY OF TORONTO,
Toronto, June, 1903.

MUNICIPAL GOVERNMENT IN ONTARIO
AN HISTORICAL SKETCH

BY

ADAM SHORTT, M.A.,

PROFESSOR OF POLITICAL ECONOMY AND CONSTITUTIONAL HISTORY, QUEEN'S UNIVERSITY.

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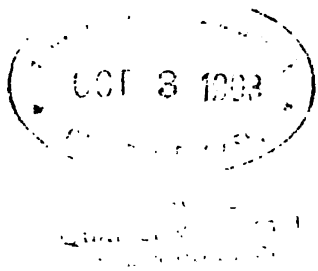

MUNICIPAL GOVERNMENT IN ONTARIO

AN HISTORICAL SKETCH

BY ADAM SHORTT, M.A.

The history of municipal government in Ontario is the history of an important phase of the development of responsible government in Canada. Owing to the colonial policy of Great Britain, as administered by the Canadian governors, there was long manifested a profound distrust of the principle of self-government, both general and local. Yet the Loyalists who settled in Canada had been for the most part accustomed to a considerable measure of local self-government in the colonies from which they came. Under the French-Canadian system, determined by the Quebec Act, there was no provision for municipal government. Owing to the protests of the English element already in the colony, and the numerous petitions of the Loyalists and others who came to the colony, during or after the American Revolution, it was found necessary to amend the Canadian constitution. This was effected by the Constitutional Act of 1791, which divided Canada into the two provinces of Upper and Lower Canada, afterwards Ontario and Quebec. To each was given a representative assembly and an appointed council under a separate governor.

Immediately after the arrival of the Loyalists and before the repeal of the Quebec Act, magistrates' commissions had been given to several of the loyalist officers in the western settlements, that they might preserve the peace and settle minor disputes.[1] At first their functions were purely legal. But in 1785 an Ordinance was passed, "for granting a limited civil power and jurisdiction to His Majesty's Justices of the Peace in the remote parts of this Province."[2] After receiving several

[1] Canadian Archives, B. Vol. 65, p. 28.

[2] Laws of Lower Canada, Vol. I., p. 103.

petitions for a more extended system of local government, another Ordinance was passed in 1787 authorizing the creation of new districts and the appointment of special officers for their administration.[1] In accordance with this authority Lord Dorchester issued a proclamation, dated July 24th, 1788, dividing the western settlements into four districts named Lunenburg, Mecklenburg, Nassau and Hesse.[2] On the same day appointments were made to the following offices in each of the new districts: judges of the Court of Common Pleas, justices of the peace, sheriff, clerk of the Court of Common Pleas and of the Sessions of the peace, and coroners.[3]

Courts of Quarter Sessions were thus organized and began their sittings the following year. The first court for the district of Mecklenburg was held at Kingston on April 14th, 1789;[4] and the first court for the district of Lunenburg was held at Osnabruck on June 15th, in the same year.[5] The duties of the Courts of Quarter Sessions, as interpreted and exercised, were partly judicial, as in connection with the maintenance of the peace; partly legislative, as in prescribing what animals should not run at large, or what conditions should be observed by those who held tavern licenses; and partly administrative, as in appointing certain officials and in laying out and superintending the highways.[6] When, therefore, Governor Simcoe came to Upper Canada to establish the new provincial government, in 1792, he found the Courts of Quarter Sessions already in operation as the only form of local administration.

The townships first laid out in Upper Canada had no connection with municipal government. They were simply territorial units, arranged for the convenience of the surveyors and the land-granting department in recording lands and arranging settlements. So little intention was there to use the townships

[1] Laws of Lower Canada, Vol. I., p. 121.

[2] Canadian Archives, Q. Vol. 37, p. 178.

[3] Canadian Archives, Q. Vol. 39, pp. 134-139.

[4] Early Records of Ontario (*Queen's Quarterly*, Vol. VII., p. 55).

[5] *Lunenburgh, or the Old Eastern District*, by J.F. Pringle, p.47.(Cornwall, 1890.)

[6] Early Records of Ontario (*Queen's Quarterly, loc. cit.*).

as municipal units, that special instructions were issued requiring the townships to be numbered instead of named. They were not even to be referred to as townships, but as royal seigneuries.[1] Yet, in spite of these precautions, even before the passing of the Constitutional Act, the settlers in some of the earlier townships, such as Fredericksburg and Adolphustown, had undertaken to reproduce in Canada the local institutions to which they had been accustomed in the English colonies.[2]

Such being the attitude of many of the first settlers in Upper Canada, we are not surprised to find that the first bill introduced was one "to authorize town meetings for the purpose of appointing divers parish officers." But after passing its second reading it was ordered that the further consideration of the bill be postponed for three months. On the same day another bill was introduced to authorize "the justices of the peace to appoint annually divers public officers." This again was followed by a bill to authorize "the election of divers public officers." None of these, however, managed to get through the House.[3] In these proposals we observe the conflict of the two rival American systems, typified by New England and Virginia, the one seeking to vest in the people the election of their local officers and the regulation of their local affairs, the other seeking to confine these rights to the justices of the peace in Quarter Sessions, who again depended for their positions upon the Governor in Council.[4]

Simcoe, in his report on the session to the Home Government, says that the lower House "seemed to have a stronger attachment to the elective principle in all town affairs than might be thought advisable."[5] The following session the bill with reference to town meetings was once more introduced and

[1] Canadian Archives, B. Vol. 65, p. 34.

[2] *Early Municipal Records of the Midland District.* (In Appendix to the Report of the Ontario Bureau of Industries, 1897.)

[3] See Journals and Proceedings of the House of Assembly of the Province of Upper Canada, 1792. Canadian Archives, Q. Vol. 279-1, pp. 87 *et seq.*

[4] For a fuller account of early municipal conditions, see *The Beginning of Municipal Government in Ontario*, in Transactions of the Canadian Institute, Vol. VII., pp. 409-424.

[5] Canadian Archives, Q. Vol. 279-1, p. 83.

passed. Writing to the Colonial Secretary, Dundas, in September, 1793, Simcoe says that he managed to put off the bill of last session with reference to town meetings as something that should not be encouraged. But as regards the opposite measure proposed, he says that "to give the nomination altogether to the magistrates was found to be a distasteful measure." Many well-affected settlers were convinced that fence-viewers, pound-keepers, and other petty officers to regulate matters of local police, would be more willingly obeyed if elected by the householders, and especially that the collector of the taxes should be a person chosen by themselves. "It was therefore thought advisable not to withhold such a gratification to which they had been accustomed, it being in itself not unreasonable and only to take place one day in the year."[1]

When we turn to this Act[2] we find that it merely permits the ratepayers to elect certain executive town officers, whose duties were either prescribed by the Act or left to be regulated by the justices in Quarter Sessions. The first and most important office to be filled was that of town clerk. This official was required to make a list of the inhabitants of his parish or township and deliver it to the magistrates in Sessions, also to keep a record of all matters pertaining to the parish or town. Then there were two assessors for each township, whose duty it was simply to assess the various inhabitants according to the rates appointed by the legislature of the province. There was also one collector for each township, whose duty was limited to collecting the amounts assessed to each ratepayer. Again, there were the overseers of the highways, at first not less than two or more than six. Their duties with reference to the roads were prescribed by the legislature, they were also to act as fence-viewers, to pass upon the sufficiency of any fence as determined upon by the inhabitants at the town meeting. The person elected as pound-keeper was authorized to empound such domestic animals as should trespass on lands enclosed by a sufficient fence, or such as were not permitted to run at large.

[1] Canadian Archives, Q. Vol. 279-2, pp. 335 *et seq.*

[2] 33 Geo. III., c. 2.

Finally, there were two town wardens, whose function it was to take charge of the property of the township, to defend its rights and answer for its obligations. As soon as a church of England was established in the township and a parson or minister duly appointed, the parson was to nominate one of the wardens and the people to elect the other. The persons elected to these offices were to be duly sworn in by one of the magistrates. If any one should refuse to accept any of these offices, and since they involved many duties and few rights they were not sought after, he should be fined forty shillings, and the magistrates should appoint another to take his place.

Beyond the permission to fix the height of fences the town meeting had not legally any legislative function. The town officers were quite independent of each other and responsible not to those who elected them but to the magistrates. By an Act passed the following year[1] a slight additional legislative power was given to the town meetings, permitting them to fix the limits of times and seasons for certain animals running at large, but even this power was afterwards curtailed. This first Act, therefore, while authorizing town meetings effectively strangled all interest in them except where, as in Adolphus and neighbouring townships, the limitations of the Act were to a certain extent disregarded. For years to come the Court of Quarter Sessions remained the only living centre of municipal affairs.

Recognizing the democratic tendencies of the people Simcoe reported to the Home Government that, "in order to promote an aristocracy, most necessary in this country, I have appointed Lieutenants to the populous counties which I mean to extend from time to time, and have given to them the recommendatory power for the militia and magistrates, as is usual in England."[2] He selected them as far as possible from the Legislative Council. However, the Home Government was even more averse than Simcoe to permitting local administration to pass

[1] 34 Geo. III., c. 8.

[2] Canadian Archives, Q. Vol. 279-1, p. 85.

out of the hands of the central government. It therefore disapproved of the appointment of lieutenants of counties,[1] and the system did not long survive Simcoe's administration. Almost from the first the duties of the office were limited to militia affairs.

Simcoe's successor, Governor Russell, shortly after taking office, sent a circular to the lieutenants of counties, in 1796, in which, in addition to urging them to activity in connection with the militia system, he asks them to keep him informed as to the magistrates to be appointed in their several districts and to send in names for his approval.[2] However, as the combination of personal and corporate interests which centred about the Executive became thoroughly organized and established connections with the various parts of the province, the object which Simcoe had in view in the appointment of lieutenants of counties was secured in a more direct and effective manner, and, being based upon immediate self-interest, remained more permanent than any artificial system that could have been devised. It was before this shrine of aristocracy that the cry for responsible government ascended so long in vain. Nothing gives to arrogance so fine a flavour as the sublime consciousness of rectitude. The aristocracy of the Compact were virtuously certain of being "most necessary" in the interests of a monarchial system. Conceiving it to be their chief duty to guard the body politic from the corrupting influences of republicanism and other plebeian forms of vice, they steadily set their faces against all efforts in the direction of so-called responsible government, whether in local or provincial matters.

Having seen what was the nature of the machinery adopted for local administration in Upper Canada, we have now to take note of its working and development. In order to provide the Quarter Sessions with the means for carrying on their functions the first Assessment Act of the province was passed in 1793.[3] The chief objects for which rates were to be levied are set forth

[1] Canadian Archives, Q. Vol. 281-2, pp. 328 *et seq.*

[2] Canadian Archives, Q. Vol. 282-2, p. 574.

[3] 33 Geo. III., c. 3.

in the introduction to the Act: "Whereas it is necessary to make provision for defraying the expenses of building a court house and gaol, and keeping the same in repair, for the payment of a gaoler's salary, for the support and maintenance of prisoners, for building and repairing houses of correction, for the construction and repair of bridges, for the fees of a coroner and other officers, for the destroying of bears and wolves, and other necessary charges within the several Districts of this Province, therefore, etc." The Act requires the assessor to classify the resident householders in eight groups, according to the value of the real and personal property possessed by each, ranging from £50 as the lowest amount to be taxed, up to £4,000 and upwards as representing the highest class. When these lists had been passed upon by two of the local magistrates, the collector was authorized to demand from the persons so listed certain specified sums in taxes, ranging from 2s. 6d. for the lowest class, up to 20s. for the highest. The district treasurer, appointed by the Sessions, received the moneys sent in by the collectors and held them subject to the order of the Quarter Sessions. After two years' experience of this rating, and after considering the assessment of the district and the need for the ensuing year, the Court might consider what proportion of the rate specified by the Act would be required to supply the needs of the district, and should declare that proportion the rate to be levied for the following year. Thus they might declare a full rate, a quarter rate, or a three-quarter rate as was thought necessary.

The roads, the most important feature in a new country, were dealt with in a separate Act,[1] replacing the old Ordinance of the province of Quebec. The new Act provided that the justices of the peace in their respective divisions were to be commissioners of the highways. From these commissioners the overseers of the highways, elected by the town meetings, took their instructions. The Act specifies with considerable detail the general plan to be followed by the commissioners,

[1] 33 Geo. III., c. 4.

and the services required from the overseers. The highways were expected to be built and maintained by a labour tax, commonly known as statute labour.

From time to time the three Acts relating to parish officers, assessments and roads were amended, and in their amendment represented the gradual development of the province in these respects. However, other functions were added to the powers of the Quarter Sessions, covering the most important aspects of the new municipal developments, apart from roads and taxes. The assessment Act underwent numerous alterations, the most important of which was the change of system which took place in 1803.[1] This took from the assessors the discretion formerly allowed them in classifying the owners of property for purposes of taxation. The new Act specified certain classes of taxable property, such as cultivated or uncultivated lands, domestic animals, mills, stores, taverns, etc., and to each class was assigned a special valuation by the Act. Upon the total value of property in each district, thus determined, the magistrates were to levy such a rate as would meet the requirements of the district. The maximum rate was limited to one penny in the pound, for any one year. There was, apparently, under the old system, a natural tendency among the assessors to keep down the valuation in their respective townships, in order that this or that township might bear as little of the district tax as possible. Owing to the peculiarly rigid and artificial method of valuing property, which was the basis of the new system, the assessment Act required frequent revision in order to preserve any approximately just valuation. Under its numerous amendments and adjustments the same system remained in force until after the municipal government of the province had practically taken its present form under the Baldwin Act of 1849.

No change took place in the road Act until 1798, when the amount of statute labour required from each individual was proportioned to the assessment of his property, and ranged from six to twelve days.[2] In 1804 a new and important departure

[1] 43 Geo. III., c. 12.
[2] 38 Geo. III., c. 7.

was made as regards the roads.[1] For the first time a sum of money was voted by the provincial legislature to assist in laying out and opening new roads, repairing old roads and building bridges in the several districts of the province. It was acknowledged that the local powers and resources were inadequate to provide the roads necessary to open up certain new districts and afford a general means of communication throughout the province. The expenditure of the provincial grants and the superintendence of the work to be done, instead of being committed to the justices in Quarter Sessions, were entrusted to special commissioners appointed by the Executive Government and directly responsible to it. This principle, once acknowledged, rapidly developed, and from this time on we have two independent powers in charge of the roads of the province. In course of time there emerged a third road factor in the shape of the joint stock companies for the building and maintenance of roads and bridges, on which they were authorized to collect tolls. In 1810 an important change was made in that part of the road system which fell within the jurisdiction of the Quarter Sessions.[2] The justices were authorized to appoint surveyors of the highways who should, on the one hand, take their general instructions from the justices and report to them, and, on the other, have at their command the statute labour of the district superintended by the overseers of the highways elected by the town meetings. Special work on the highways might also be performed on the recommendation of the surveyors, to be paid for out of the district funds. In 1819 it was provided that statute labour might be compounded for at the rate of 3s. 9d. per day, afterwards changed to 2s. 6d. per day.[3]

We may now turn to trace the development of the various phases of municipal government made necessary by the growth of the province, the rise of towns, and the emergence of new social problems. In 1794 the magistrates were given the power to regulate tavern licenses, by giving or withholding certificates

[1] 54 Geo. III., c. 6.
[2] 50 Geo. III., c. 1.
[3] 59 Geo. III., c. 8.

upon which licenses were granted by the Provincial Secretary.[1] In 1797 the Quarter Sessions were authorized to regulate ferries by ordering suitable rules and regulations and assessing the rates to be charged.[2]

Up to 1801 the Quarter Sessions were not authorized to make any special provisions for towns or villages as distinct from the remainder of the district. Gaols and court-houses were naturally placed in the chief town or towns in the district, and in such towns special nuisances were abated, special attention paid to the roads, special grants made for the schools and for the relief of the poor. But all these were services which might have been discharged for any part of the district where need arose. In 1801, however, by a special Act of the legislature, the Court of Quarter Sessions of the Midland district was empowered to establish and regulate a market in the town of Kingston.[3] This was as much for the convenience of the inhabitants of the district in general as for the benefit of the people of Kingston. The location of the market, and the various rules and regulations to be observed in connection with it, were left to the discretion of the magistrates. Copies of the market rules were to be posted in the most public places in every township in the district, and at the doors of the church and court-house in Kingston. Up to this time there had been an informal market in the town. By common consent certain streets were recognized as places where country produce was to be bought and sold. No rules, however, could be enforced; there were no market hours or days appointed, or any protection against forestalling, in those days much complained of. The magistrates acted upon the authority given them, the Kingston market was duly established, and by 1811 the published rules and regulations had become very extensive.[4]

As early as 1792 an annual fair had been established at Newark (Niagara) by proclamation of Governor Simcoe under

[1] 34 Geo. III., c. 13.
[2] 37 Geo. III., c. 10.
[3] 41 Geo. III., c. 3.
[4] *Queen's Quarterly*, Vol. VIII., p. 150.

authority of his general commission from the Home Government.[1] Evidently following this precedent the people of York (Toronto) in 1802, desiring to have a market established there, made direct application to Lieutenant-Governor Hunter and the Executive Council. The following year an Order in Council was passed granting to the Chief Justice and certain other councillors a plot of ground at York to be set aside for a market, and to be held by them as a trust for the public benefit.[2] In 1814 authority to establish a regular market in York was given to the Quarter Sessions of the Home district, in terms practically identical with the Act to establish a market in Kingston.[3] Another Act specially providing for the convenience of towns was that of 1803, prohibiting swine from being permitted to run at large in the towns of York, Niagara, Queenston, Amherstburgh, Sandwich, Kingston, and New Johnstown.[4]

Apparently the meagre element of responsible government allowed to the town meetings was not always sufficient to maintain interest in them, for in 1806 it was necessary to provide that in case in any township no town meeting should be held, or township officers appointed, the Quarter Sessions should appoint the necessary officers and duly fine them should they decline the honour.[5]

Kingston being for many years the chief commercial town in Upper Canada, it was naturally there that the more important urban municipal problems first developed. While Simcoe was still Governor, the Hon. Richard Cartwright, chairman of the Court of Quarter Sessions of the Midland district, had submitted to him the outline of a plan for incorporating the town of Kingston.[6] The proposed corporation was to consist of a certain number of persons who might either be appointed by the

[1] Canadian Archives, Q. Vol. 282-1, p. 206.

[2] See Minutes of the Executive Council, Canadian Archives, Q. Vol. 298-1, p. 51.

[3] 54 Geo. III., c. 15.

[4] 43 Geo. III., c 10.

[5] 46 Geo. III., c. 5.

[6] *Life and Letters of the late Hon. Richard Cartwright*, p. 142. (Toronto, 1876.)

Governor, elected by the people, or partly one and partly the other. The function of the corporation should be to regulate the police of the town, under the following heads:—Measures for preventing accidents by fire; the times and places for holding public markets; determining the price and weight of bread; regulations for improving the streets and keeping them clean; regulating the fares of carters within the limits. The corporation should also have power to administer and dispose of the public domain, and the area of their jurisdiction should be enlarged from time to time so as to include the suburbs of the town as it increased. This plan, which was in accordance with the best American experience, indicates the line along which municipal expansion in Canada was actually to move; but it was a very long time in overtaking even this simple outline. Simcoe evidently took up Cartwright's suggestion, though he enlarged on it somewhat, and gave it a more aristocratic turn. His proposal to the Home Government was to erect the towns of Kingston and Niagara into cities, each with a corporation consisting of a mayor and six aldermen, to be justices of the peace, and a suitable number of common councillors. This was a standard arrangement in Britain, as it was afterwards in the first chartered cities in Upper Canada. But the members of Simcoe's corporations were advised "to be originally appointed by the Crown, and that the succession to vacant seats might be made in such manner as to render the election as little popular as possible, meaning such corporations to tend to the support of the aristocracy of the country."[1] However the Duke of Portland, with more insight, discouraged the project, suspecting that it might foster a taste for self-government.[2] It was evidently through Cartwright's influence and initiative that the Act authorizing the establishment of the market in Kingston was obtained, and as chairman of the Quarter Sessions he was instrumental in bringing the Act into operation and regulating the market.

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[1] Canadian Archives, Q. Vol. 287-1, p. 164.

[2] Canadian Archives, Q. Vol. 281-2, pp. 328 *et seq.*

As the Canadian towns began to fill up and the streets to take shape, with buildings, mostly of wood, coming into closer neighbourhood, the danger from fire rapidly increased. In Kingston, Queenston and York this soon came to be a matter of much importance, especially in Kingston where one or two of the more wealthy of the citizens, owning stores and warehouses, had not only insured their buildings but had provided themselves with special apparatus, popularly dignified by the name of "engines", for the suppression of fire. However, the lack of any special building regulations or any corporate organization for coping with fires occasioned uneasiness to the prudent. About the beginning of 1812 a severe fire in Kingston brought the question vividly before the citizens. It was at first proposed to take up the matter through private initiative and to raise by subscription a fund for the purchase of an adequate fire-engine with hose, hooks, ladders and buckets.[1] A volunteer fire company, as in the American towns, was also proposed. As an inducement for the citizens to join the company it was suggested that the volunteers should be exempt from serving on juries, or being elected as parish or town officers,—another side light on the craving for such honours. However it was generally recognized that an efficient local administration, commanding the confidence of the citizens, was indispensable. Hence it was proposed that the legislature should be at once petitioned for an Act to incorporate the town and thus give to its magistrates the necessary authority to make such by-laws, rules and regulations as they might deem necessary for the benefit of the community.[2] But all such projects were immediately checked by the outbreak of the war. After the peace the question of civic incorporation for Kingston was again actively discussed, especially over the head of such subjects as fire-protection, improvement of the streets, and the suppression of drunkenness and vice, the legacy of war. Certain public-spirited citizens had graded the streets and laid stone foot-paths opposite their

[1] *Kingston Gazette*, Jan. 28, 1812.
[2] *Kingston Gazette*, Feb. 4, 1812.

own properties, yet there was no general or concerted action.[1] Thus while the town was prosperous and flourishing as regards many of the citizens, it was miserably backward in its corporate life. Lieut. Francis Hall, an English officer, who visited Canada at this time, gives the following concrete picture of the difference between an American and a Canadian town. Comparing Sackett's Harbour with Kingston he says: "It covers less ground than Kingston, and has fewer good houses; it has, however, the advantage of a broad flagged footway, while the good people of Kingston, notwithstanding the thousands expended in their town, and the quarries beneath their feet, submit to walk ankle deep in mud, after every shower."[2] In attempting to account for this difference, he thinks it must be due to the fact that the people of Canada are simply here to accumulate a fortune with which to retire to Britain. Though this was an unfortunate tendency in the earlier days of the colony, resulting in much impediment to Canadian progress, yet it had little to do with municipal backwardness. The real reason for the contrast was that on the American side the people were not only permitted but encouraged to improve their local surroundings by corporate self-government, while in Canada these democratic practices were regarded as "the very worst principles" of the dreaded American system.[3]

The people of Kingston, as of other towns, were quite alive to the great defects in their local civic life, but neither the magistrates of the Quarter Sessions nor the people of the towns had any encouragement or even authority for attempting improvements. Still they did not cease to urge their needs upon the legislature. Finally, Kingston obtained some measure of relief by the passage of an Act, the first of its kind in Upper Canada, to regulate the police within the town.[4] This was not really a measure of self-government. It simply gave to the

[1] *Kingston Gazette*, Jan. 27, 1816.

[2] *Travels in Canada and the United States in 1816 and 1817*, by Lieut. Francis Hall, p. 106. (Boston, 1818.)

[3] See Lieutenant-Governor Gore to Mr. Windham, Canadian Archives, Q. vol. 305, p. 45.

[4] 56 Geo. III., c. 33.

magistrates of the Quarter Sessions the power "to make, ordain, constitute and publish such prudential rules and regulations as they may deem expedient relative to paving, keeping in repair, and improving the streets of the said town, regulating slaughter houses and nuisances, and also to enforce the said town laws relative to horses, swine or cattle of any kind running at large in said town; relative to the inspection of weights and measures, firemen and fire companies." To meet the expenses of local improvement the magistrates were authorized to levy a special tax upon the ratepayers, not exceeding in the aggregate £100 in a year. With a total annual spending power of $400, the magistrates were not likely to indulge extravagant conceptions of civic improvement. Still they immediately took advantage of their limited powers, and before the end of 1816 had drawn up and published in the Kingston *Gazette* a set of fourteen rules and regulations, which served as a nucleus for future by-laws in many Upper Canadian towns. These regulations referred to such matters as turnpiking the streets, grading and paving the sidewalks, preventing the obstruction of the streets, or furious driving thereon, regulating buildings with a view to prevent fires and to facilitate the extinguishing of fires, and the regulation of slaughter-houses and other nuisances.[1]

In the same year, 1816, the first public school Act for Upper Canada was passed.[2] This gave to the people of the different towns, villages and townships the first real measure of local self-government, in that it permitted them to meet together for the establishment of schools. The inhabitants of any section providing at least twenty scholars were authorized to build a school-house, and, having undertaken to pay part at least of a teacher's salary, they might elect three trustees to examine and engage a teacher and authorize text-books, subject only in the latter case to the veto of the district Board of Education. Thus people who could not be trusted with the power of electing representatives to look after streets and regulate carters and

[1] *Kingston Gazette*, Sept. 1, 1816; Reprinted in *Queen's Quarterly*, Vol. IX., p. 133.

[2] 56 Geo. III., c. 36.

nuisances were deemed quite competent to choose representatives who should be sufficiently wise and well-informed to qualify teachers and authorize text-books, as well as pass upon the other educational needs of the country.

In 1817 the measure of local government authorized for Kingston was extended to the towns of York, Sandwich, and Amherstburg.[1] The same year authority was given to the magistrates of the Niagara district to establish a market in the town of Niagara.[2] This was of the same nature as the authority granted for the Kingston and York markets. From time to time other places, as they rose to importance or acquired influence, were granted the privileges of a market and a local police under the conditions already given. Also, with the increase of population and the settlement of new regions of the country, the townships and districts of the province were subdivided and rearranged. But for a considerable time few additional powers were given to the justices of the peace. In 1822 the magistrates in whose jurisdiction the police towns were situated were required to render an account annually of the receipt and expenditure of the special rates levied on the towns.[3] In 1825 the magistrates in the police towns were required to fix the price of bread fortnightly, if necessary, the price to be regulated by the price of flour during the previous fortnight.[4] In 1826 an Act brought into operation the suggestion made in Kingston before the war of 1812 with reference to fire companies.[5] It provided for the establishment of volunteer fire companies in the several police towns, and the granting of certificates to the efficient members exempting them from militia duties during peace, and from the necessity of serving on juries, or as constables, or in any other parish or town office.

Some experience of the police town system conclusively proved that it afforded no adequate executive machinery for carrying out the regulations of the magistrates. Hence in

[1] 57 Geo. III., c. 2.
[2] 57 Geo. III., c. 4.
[3] 2 Geo. IV., c. 13.
[4] 6 Geo. IV., c. 6.
[5] 7 Geo. IV., c.8.

several towns the people once more began to agitate for a regular system of self-government under a separate municipal corporation. Kingston again took the lead, and, after a couple of years' discussion, a public meeting was held in the court-house on December 26th, 1828. The meeting resulted in the adoption of eight resolutions pointing out the inconvenience of the existing system, and the necessity for the incorporation of the town with a council whose members should be elected by ballot, every householder paying a police tax to have a vote. A committee was appointed to prepare a petition to the legislature to this effect.[1] The petition, as presented, contained a sketch of the proposed constitution of the town, which embodied some rather interesting features among others of a more familiar type. Thus the system of double and even triple election was brought in. The ratepayers were to elect twenty-four electors, who in turn should elect seven of their number to be town councillors, and the councillors were to elect one of their number to be the chairman or mayor of the town.[2]

However, another town of the Midland district, namely, Belleville, was the first actually to get a bill embodying the principle of self-government before the legislature. This was not a bill to incorporate the town, but merely to establish a police Board in it. Still it contained a new feature, that the police Board should be elected by the inhabitant householders. The measure successfully passed the Assembly, but when it came to the Council it was reported upon adversely. The grounds of opposition were adroitly though fallaciously chosen. If, it was said, the people themselves elect those who are to make and enforce the town regulations, then, since men do not like to be forced, they are pretty certain to elect only such persons as will not make effective rules or adequately enforce them; hence, in the interest of efficient civic administration, such innovations must be discouraged.[3] The report was accepted,

[1] *Kingston Chronicle*, Dec. 27, 1828.
[2] *Kingston Chronicle*, Jan. 10, 1829.
[3] Journals of the Legislative Council of Upper Canada, 1828, p. 51.

and the people of Belleville saved from their own rashness. Such being the attitude of the Council, it was inevitable that the more radical measure proposed for Kingston should be rejected. Accordingly, though also passed by the Assembly, it was rejected without argument by the Council.[1]

Notwithstanding these rebuffs, an increasing number of towns continued to send in petitions and to have bills introduced to authorize a certain measure of municipal self-government. In 1831 the people of Brockville managed to get a bill through the Assembly for the incorporation of the President and Board of Police of the town, and for the establishment of a market. During the same session the Assembly once more passed the Kingston bill for incorporation. Both measures, however, went down before the paternal vigilance of the Council. The fact of the market being introduced into the Brockville bill was seized upon as a reason for rejecting it. The following session, 1831-32, Brockville, taking the Council at its word, again had its bill introduced, purged of the objectionable market feature. This time, after passing the Assembly, it came before a committee of the Council composed of the more liberal members who, in language as conciliatory as possible towards the prejudices of their fellow councillors, recommended that the bill be passed. The majority of the Council, however, while apparently recognizing that they could not for ever stem the rising tide of democracy, yet endeavoured to mitigate its evils. As the result of a conference between the two Houses, a bill with a less democratic title was sent up from the Assembly and finally passed.[2] This Act marks a new departure in the municipal government of Upper Canada.[3] It made the Brockville town Board a distinctive body corporate under the name of the President and Board of Police of the Town of Brockville. The town was divided into two wards. The householders of each ward were to elect two members of the corporation, and

[1] See for this, and several other bills of the period, British Blue Books, Returns Relating to the Legislative Council of Upper Canada, 1833, pp. 15-19.

[2] Journals of the Legislative Council of Upper Canada, 1831-2, pp. 37-45.

[3] 2 Wm. IV., c. 17.

the four were to elect a fifth, though in case of disagreement the town at large elected the fifth. The five members then appointed one of their number president. The powers of the corporation, though not materially extended beyond those previously granted to the police towns, were yet much more minutely specified, since it was now necessary to distinguish between the authority of the police Board of the town and the general powers of the magistrates of the Quarter Sessions, who still retained such jurisdiction over the town as was not specifically granted to the police Board. The matters placed within the authority of the new Board in Brockville were almost identical with the new set of general police regulations appointed for the town of Kingston by the Quarter Sessions, in March, 1830.[1] The funds for the town were to be provided by a special rate on its assessed property, the rate not to exceed 2d. in the pound. The various town officers were no longer to be elected by the people, but appointed by the corporation. The corporation was specially prohibited from interfering with the market, which was established by special Act the following session.

The next year, session 1832-3, the town of Hamilton was granted a Board of police and a market, by an Act which combined the Brockville police Act of the former session and the market Act of that session.[2] In the case of Hamilton, the town was divided into four wards, instead of two, and each ward elected one member, the fifth being chosen as in Brockville. The rate of taxation also was extended to 4d. in the pound, being double the Brockville rate. The corporation was authorized to borrow £1,000 with which to build a market house, whose site however was to be chosen by the justices of the peace for the district of Gore. During the same session of 1832-3, bills to establish similar corporations in the towns of Prescott and Cornwall were passed by the Assembly, but strangled by a pocket veto in the Council.[3] A futile attempt

[1] *Kingston Chronicle*, March 30, 1830.
[2] 3 Wm. IV., c. 16.
[3] Journals of the Legislative Council of Upper Canada, 1832-3, pp. 47 and 139.

was also made to obtain an Act of incorporation for the town of York.[1]

The following year, 1834, the towns of Belleville, Cornwall, Port Hope and Prescott obtained Acts of incorporation of the same nature as that of Hamilton. This year also York was suddenly raised from the position of a police town, under the control of the district magistrates, to the dignity of a self-governing city, the name of which the Legislative Council changed to Toronto.[2] The city was divided into five wards. Each ward was to elect two aldermen and two common councillors, and these were to elect a mayor from the body of aldermen. The legislative powers of the common council were specified at considerable length. They covered not only all the municipal functions of the other town charters, and of the Courts of Quarter Sessions, but a number of new powers then for the first time specifically mentioned, though in some cases previously exercised. The rate of taxation was limited to 4d. in the pound upon assessments within the city proper, and 2d. on assessments within the liberties or suburbs attached to the city. The borrowing power was limited to the amount of the revenue to accrue within five years after effecting the loan. This charter was amended in 1837, the most important new feature being the provision of a special system of assessment for the city.[3] The various kinds of property liable to be assessed were specified, but in certain cases the valuation was left to the assessor, while in others it was definitely determined. The old rate of 4d. in the pound having been found quite inadequate to the needs of the city, the limit was raised to what in those days was regarded as the alarming proportion of 1s. 6d. in the pound, the suburbs to be taxed at one-fourth the rate of the city. In 1837 Cobourg and Picton were also incorporated.[4]

Though Kingston had been the first town to seek incorporation, it remained under the jurisdiction of the Quarter Sessions

[1] Journals of the Legislative Council of Upper Canada, 1832-3, p. II.
[2] 4 Wm. IV., c. 23.
[3] 7 Wm. IV., c. 39.
[4] 7 Wm. IV., c. 42 and c. 44.

until 1838. Then it obtained a constitution practically the same as that of the city of Toronto, though denied the title of city.[1] It was divided into four wards, from each of which was to be elected one alderman and one common councilman. Together these were to elect a mayor, who might or might not be chosen from the council. The rate of assessment was not to exceed 6d. in the pound, and the borrowing powers of the council were limited as in Toronto, while the assessment system was also the same as that of the capital in the amended Act of 1837.

As we have seen, under the steady pressure brought to bear upon the Government there had been a slow but certain progress towards self-government in the Canadian urban municipalities. Yet the rural municipalities remained, down to the time of the union of the provinces in 1841, almost in the position in which they were left by the first parliament in Upper Canada.

In his report on Canada, Lord Durham stated that "the establishment of a good system of municipal institutions throughout this province is a matter of vital importance . . . The true principle of limiting popular power is that apportionment of it in many different depositaries, which has been adopted in all the most free and stable States of the Union . . . The establishment of municipal institutions for the whole country should be made a part of every colonial constitution."[2] On this point his successor, Lord Sydenham, frankly adopted Lord Durham's recommendation, and made it an essential part of his policy in both provinces. It was his intention that the essential features of a general municipal system should be embodied in the Union Act. The necessary clauses had been sent home to England to be incorporated in the proposed Act. However, they met with considerable opposition in the British Parliament, and were dropped.[3] Lord Sydenham, as Lord Durham before him, did not consider it possible that the legislature in either province

[1] 1 Vic., c. 37.

[2] Report on the Affairs of British North America, from the Earl of Durham, 1839, p. 103.

[3] *Memoir of the Life of the Rt. Hon. Charles Lord Sydenham, G.C.B.*, edited by his brother, G. Poulett Scrope, Esq., M.P., p. 200. (London, 1843.)

could be brought to give up the power and patronage which local government entailed. Still, it was one of Lord Sydenham's special triumphs that he secured the passage of a local government Act during the first session of the united legislature. As a preliminary to this he took advantage of the suspension of the provincial legislature in Lower Canada to get his municipal Act passed as an ordinance of the Special Council.

All parties agreed that it would not have been possible to secure all at once a full measure of local self-government. But in the District Councils Act of 1841 the foundation of a general municipal system for the whole of Upper Canada, at least, was laid, and the way was naturally prepared for the more complete measure of 1849. The importance which Lord Sydenham attached to the establishment of a general system of local government is indicated in the following statement: "Since I have been in these provinces, I have become more and more satisfied that the capital cause of the misgovernment of them is to be found in the absence of local government, and the consequent exercise by the Assembly of powers wholly inappropriate to its functions."[1] When the measure came up for discussion in the legislature it met with opposition from the extreme members of both parties. "The Tories opposed the measure because it gave too much power to the people; the radicals because it imposed checks upon that power. And with many members the bill was most unpalatable, though they did not like to avow the real motives of their dislike, because it is a death blow to their own jobbing for local purposes."[2]

The Act as passed in 1841 under the title of The District Municipal Act[3] went into effect on the first of January, 1842. Its chief features may be summarized as follows: The inhabitants of each district were to form a body corporate, whose powers were to be exercised by a district council composed of the warden, appointed by the Crown, and a body of councillors

[1] Life of Lord Sydenham, *op. cit.* p. 202.

[2] *Ibid.* See also *Reminiscences of his Public Life*, by Sir Francis Hincks, K.C.M.G., C.B., p. 63. (Montreal, 1884.)

[3] 4 and 5 Vict., c. 10.

elected by the ratepayers in their township meetings. Every township was entitled to one councillor, and to a second where the number of ratepayers exceeded three hundred. The councillors were to hold office for three years, one-third of the number retiring each year. The council was to hold four quarterly meetings at which the warden should preside. The district clerk was to be selected by the Governor from three names submitted by the council. The treasurer, however, was to be selected by the Governor alone. A surveyor of the district, who must hold a certificate of efficiency from the provincial Board of Works, was to be appointed by the warden, subject to the approval of the Governor. It was his duty to superintend all public works undertaken by the council, and to report annually to the warden on the works of the district. The district councils had power to make by-laws covering the usual municipal interests, such as the building and maintaining of highways, bridges, and such public buildings as were required for the use of the corporation; defraying the expenses of administering justice within the district; the establishment and support of schools; and assessing and collecting the district taxes. The system of taxation was to conform to the assessment law then in force, and the rates levied were not to exceed 2d. in the pound. The districts were prohibited from issuing notes or acting as bankers. No public work was to be undertaken by the council before it was reported upon by the district surveyor, and if the estimated cost should exceed £300 it must be approved by the provincial Board of Works. All by-laws passed by the district councils were to be submitted to the Governor in Council, who might disallow any of them within thirty days. The Governor had power also to dissolve any of the district councils and call for a new election. Nothing in the Act was to affect the special powers granted to any incorporated city or town. But all powers with reference to towns, cities, or villages pertaining to the justices of the peace before the passing of the Act should pass to the district councils. Quite generally we may say that the Act transferred all the municipal functions of the Courts of

Quarter Sessions to the district councils, and the Sessions remained simply courts of justice.

The Act of 1841 was obviously a compromise measure, for while it practically created self-government in the rural districts it still left a considerable restrictive and regulative power in the hands of the Executive Government. Hence though the Act worked fairly well, for such a new measure, it failed to satisfy the rising popular demand for complete self-government, which was the absorbing constitutional issue during the decade which followed Lord Durham's report.

In 1843, before the rupture between Lord Metcalfe and the first Baldwin cabinet, a bill to establish complete self-government in all forms of municipal corporations in Upper Canada was brought in by Mr. Baldwin and passed the Assembly, but was suppressed by the Council. No further move was made until the second Baldwin cabinet came to power under Lord Elgin. It was altogether fitting that under Lord Elgin's enlightened administration both central and local administration in Canada should have been finally placed on that basis of self-government on which they now rest. This was accomplished in the case of municipal government by the Act of 1849, commonly known as the Baldwin Act.[1] The preamble to this Act sufficiently indicates the scope and purpose of the measure. "Whereas it will be of great public benefit and advantage that provision should be made, by one general law, for the erection of Municipal Corporations and the establishment of Regulations of Police in and for the several Counties, Cities, Towns, Townships and Villages in Upper Canada, etc." One of the most important features of the Act is that in it, for the first time, we find a serious recognition of the township as the unit of rural self-government. Taking the various municipal corporations in order, we have the following summary of their respective spheres and powers.

Townships: The inhabitants of each township, having upwards of one hundred resident ratepayers, are incorporated as a

[1] 12 Vic., c. 81.

municipality The township may be divided into rural wards for the purpose of electing township councillors, though as an alternative they might be elected at the annual town meeting. There were to be five councillors for each township. These were to elect from among themselves a town reeve, and, in townships containing 500 ratepayers or over, a deputy reeve as well. The town reeve was to preside at all meetings of the councils, or, in his absence, the deputy reeve. The council appointed three assessors and one collector. Township councils had power to make by-laws for the following purposes: The purchase of such real property as may be necessary ; the building of a town hall, and the erection and support of common schools; the appointment of pound-keepers, fence-viewers, overseers of the highways, or any other officers who may be necessary to carry out the purposes of the Act ; regulating the duties of the township officers, and remunerating them ; the opening of drains and watercourses; the construction and maintenance of highways, streets, bridges, etc.; controlling inns and taverns ; restricting animals from running at large ; destroying weeds, and regulating shows and exhibitions; controlling and granting privileges to road and bridge companies ; enforcing and applying statute labour; borrowing money for municipal purposes, under certain restrictions; and making general local regulations not inconsistent with the laws of the province.

Counties: The municipal council of each county shall consist of the reeves and deputy reeves of the towns and townships included in it. The county council shall elect the county warden from the body of councillors. The council shall undertake to open, improve, and maintain special county roads and bridges, though it may also give grants to township roads. In addition to the usual municipal powers, the county councils might enact by-laws for such purposes as providing for grammar schools for the county, regulating ferries, opening county drains, granting licenses to road and bridge companies, and taking stock in them.

Police Villages: The county council may, on petition of the inhabitants of an unincorporated village, erect it into a

police village, and provide for the election of police trustees, whose powers shall extend to such matters as regulating buildings and their contents, with a view to preventing fires; and adopting measures for the suppression of nuisances.

Incorporated Villages: The inhabitants of certain specified villages, or others afterwards to be authorized by the Provincial Secretary, shall be a body corporate; and, with respect to the village council, the appointment of reeves and other general powers shall be on the same footing as townships. They shall, however, have additional authority as to streets, sidewalks, etc.; the regulating of markets, weights and measures; the suppression of nuisances, and the prevention of vice; the control of taverns and licenses, and the framing of regulations for the prevention of fires, and for protecting the public health.

Towns: Special corporate powers are given to fifteen towns whose limits and divisions into wards are set forth in schedule B of the Act, and to all future towns which may from time to time be raised to that position by proclamation of the Governor. The corporate powers of a town are to be exercised by a council to be composed of three councillors from each ward. The mayor was to be elected by the councillors from among themselves. The mayor would act as town magistrate unless, on petition to the Crown, a special police magistrate should be appointed. The town council should appoint one of their number town reeve, and another a deputy reeve, where the town contained more than 500 resident freeholders. These would represent the town in the county council. The chief powers of the town councils were to make by-laws for the usual purposes of minor municipalities, and also for the lighting of the streets, for assessing property for local improvements, and, quite generally, for undertaking whatever may be necessary for the peace, welfare, safety and good government of a town.

Cities: Special corporate powers were granted to three cities—Hamilton, Kingston and Toronto, and to any others that might be constituted from towns containing upwards of 15,000 inhabitants. The corporate powers were to be exer-

cised through a council consisting of a mayor, aldermen and common councillors. Each of the wards into which a city might be divided should elect one alderman and two common councillors, and these should elect one of the aldermen to be mayor. Each city constituted a separate county with a Recorder's Court which took over the powers of the Court of Quarter Sessions. The city police magistrate and the recorder might be the same person. The general functions of a city council were to be the same as those of a town council, though exercised on a larger scale and with a fuller organization involving special powers.

A large portion of the Act deals with powers and regulations which are common to several forms of municipal corporation. Thus cities and towns may hold property for certain special purposes not incident to the other corporations. Every municipality was required to transmit to the Governor an annual statement of its debts, and, on petition of at least one-third of any corporation, the Governor in Council might appoint a commission to investigate its financial affairs. Municipalities were prohibited from acting as bankers, or from issuing any notes, bonds, or debentures to pass as money. They were given authority to contract with parties to build roads or bridges and take tolls on them, such tolls to be regulated through a by-law of the corporation.

Looking at the Baldwin Act in its historic significance we must admit it to have been a most comprehensive and important measure, whose beneficial influence has been felt not merely in Ontario, but more or less throughout the Dominion. Scarcely a session of the legislature has passed since the year of its enactment without bringing amendments, altering and enlarging, though not always clarifying its details. Yet in all essential principles its spirit and purpose are embodied in our present municipal system. Hence with it we may fittingly close this sketch of the development of responsible government in the municipal affairs of Ontario.

MUNICIPAL ORGANIZATION IN ONTARIO

BY

K. W. McKAY

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The British North America Act of 1867 is in effect the Constitution of Canada. Section 93 gives exclusive right to the several provinces to provide for their municipal government. For purposes of local administration, accordingly, the provincial legislature has divided Ontario into counties, these again into townships, incorporated and police villages, towns, and cities. Counties are judicial and administrative areas: other municipalities only administrative. An unincorporated village and suburbs, having a population of 750, may be incorporated by the county council as a village; with a population of 2,000 the Lieutenant-Governor-in-Council may by proclamation erect the village into a town; and when it has a population of 15,000 the town may be proclaimed a city. Incorporation, however, is usually effected by special legislation; moreover, in practice 10,000 is the usual population of a new city. In Ontario there are 43 counties, 423 townships, 132 villages, 89 towns, and 15 cities. Municipalities other than cities will be more particularly the subject of this study.

Ontario municipalities vary in area even more than they do in population. The largest county (Grey) contains 1,071,642 acres, with a population of 69,590, the smallest (Brant) 196,800 acres, population 38,140. Eleven townships have an area of over 80,000 acres each, while 32 have less than 20,000. The largest (London, county of Middlesex), contains 100,011 acres, population 8,878; the smallest (Sherbrooke, county of Haldimand) 4,688 acres, population 396. Under the Municipal Act the area of villages is now limited to 500 acres. There are, however, half a dozen villages previously incorporated which spread over 2,000 acres and more. The largest village territory (L'Orignal, county of Prescott) covers 3,995 acres, population

1,026; the smallest (Garden Island, county of Frontenac) 77 acres, population 242. Of the towns, Owen Sound has the largest area with 6,120 acres, population 8,776; Napanee the smallest with 372 acres, population 3,143. Seventeen towns extend over more than 2,000 acres, and seven over less than 500 acres each. The northern districts of Muskoka, Parry Sound, Nipissing, Manitoulin, Algoma, Thunder Bay and Rainy River possess no county organization as yet. But 83 townships, 3 villages and 16 towns have already been incorporated there, and in some townships school sections have been formed and road improvement districts established. In these unorganized districts, townships are six miles square and contain 23,040 acres, including lakes and rivers. Incorporation will follow as soon as population warrants.

MUNICIPAL COUNCILS.

Municipal councils in Ontario are uniformly small in size. Townships and villages elect their councils, consisting of a reeve and four councillors, every year. Towns elect a mayor, and at least six councillors. The actual number of councillors is determined by the number of wards, or by the population. For example, in towns of less than 5,000 population, of which there are at present ninety-two in the province, rate-payers may divide the town into wards, and elect one councillor for each, making up the regular number of six councillors by general vote, in case the number of wards is less than six. In the same way towns of more than 5,000—there are thirteen of these at present—may provide for the election by general vote of one alderman for each 1,000 of population. If there are less than five wards, three, in exceptional cases two, councillors are elected for each, and if five or more wards, three councillors for each. Prior to the Municipal Amendment Act of 1898 ward elections were almost universal in townships and towns. In the interest of broader municipal politics the Act abolished ward elections in townships, and for two years in towns of not more than 5,000. At present the ward system is still optional in towns, though its total abolition appears advisable.

In 1902 the town councils in ninety-seven towns were made up of six to eight councillors, in six towns of nine to ten, in two towns of eleven and twelve respectively. Down to 1897 the county councils were made up of representatives from the local municipal councils. The important County Councils Act of 1896 provided for the division of counties into not less than four, or more than nine districts, the actual number being determined by county population. Each district elects two members. The "cumulative" system of voting was also introduced, under which a voter is allowed as many votes as there are members elect of the county council. Thus where two county councillors are to be elected he has the option of giving both of his votes to one candidate. The effect of this new system of "free voting" has been helpful in equalizing political influence in the elections, and securing minority representation. In the cities, councils consist of the mayor and three aldermen elected annually for each ward. An exception is Toronto, which elects four aldermen for each of its six wards.

Councillors must reside in the municipality, or live within two miles of it; they must also be rated on the last revised municipal assessment roll for at least the value of the following over and above all incumbrances: (*a*) in townships—freehold of $400 or leasehold of $800; (*b*) in villages—freehold of $200 or leasehold of $400; (*c*) in towns—freehold of $600 or leasehold of $1,200; (*d*) in cities—freehold of $1,000 or leasehold of $2,000; but in the northern districts and in the provisional county of Haliburton where land values are low the qualifications are reduced, viz., in townships and villages to freehold of $100 or leasehold of $200; in towns to freehold of $400 or leasehold of $800. A county councillor must reside in the county division which he represents, and must have the same property qualification as a town reeve. Certain officials and others, including judges, innkeepers licensed to sell spirituous liquors, school trustees, etc., cannot qualify as councillors. In any new municipality, where on account of low property value no two persons can qualify, the lower qualification of an elector

is sufficient. All persons over sixty years of age, civil servants, barristers, teachers, firemen, millers, etc., are exempt from being elected or appointed to any municipal position.

The Franchise. The municipal franchise is almost universal. All men, widows, and spinsters of the full age of twenty-one years, British subjects, and rated for real property (freehold or leasehold or both) for the following amounts have the right to vote: in townships and villages, $100; in towns of 3,000 population or less, $200; in towns of over 3,000 population, $300; in cities, $400. In any municipality an income assessment of $400 also qualifies, income up to $700 being exempt. The franchise is further extended to farmers' sons living at home. The father must own and occupy at least twenty acres for each voting member of his family. Elections are by ballot. "Vote by ballot" was introduced in Ontario in December, 1874, and adopted generally in the January elections of 1876.

ORGANIZATION AND ADMINISTRATION.

The powers of municipal councils subject to provincial legislation extend practically to all matters of a local nature. The machinery of administration varies little in municipalities of the same class. Each municipality has its own officials, whom it appoints to hold office during the pleasure of the council. Special departments are organized in accordance with local needs and ideas.

County Councils. The seat of government for the county is the "county town." The first meeting of a council is held in the county hall or court-house. A chairman, called the warden, is then selected, and holds office for one year. Standing or special committees are next struck, to which all council business is usually referred, and from which reports in the form of recommendations, etc., are made to the council. The names of these committees indicate the class of business referred to each. The usual committees are: Finance; Roads and Bridges; County Buildings; Petitions and Legislation; Printing and Contingencies; Educational; Equalization; House of Refuge; Advisory or Executive. Special committees are chosen from time to

time. By-laws of the council usually provide for the routine of proceedings and the duties of officers and committees. Parliamentary procedure is observed.[1] The chief officers appointed by the council, in addition to the warden, are the county clerk, treasurer, engineer or commissioner, public school inspector, auditors.

Warden. The warden presides over the council, signs official documents and calls special meetings. He must summon a special meeting when requested by a majority of the council. In most counties, the wardens attend all meetings of the committees of council, and have various duties under their purview, such as a general supervision of officers and business of the county, countersigning of treasurers' cheques, etc. For this they receive an annual allowance, which varies from $50 in the county of Elgin to $450 in Simcoe. The elections to the office of warden are often keenly contested, especially in counties where the post is recognized as a stepping-stone to political preferment.

County Clerk. The county clerk acts as secretary at all meetings of council and committees, keeps the minutes and by-laws and takes charge of the books in his office or in a place appointed by by-law of the council. In most counties, by custom or direction of council he has to attend to other duties than those imposed by statute. The annual salaries vary from $250 in Dufferin to $1,200 in York, the present average being $577.

County Engineer or Commissioner. In many counties the control of work connected with the construction and repair of county roads and bridges is committed to a professional engineer or to one or more commissioners appointed by the council. In other counties this work is attended to by a committee of council, a professional engineer being on occasion consulted.

County Treasurer. The principal duties of the county treasurer are to receive the county rates from the treasurers of the local municipalities, to collect arrears of taxes due in respect

[1] Mun. Act, s. 326; Bourinot, *Procedure at Public Meetings*, p. 383.

of lands in the townships and villages of the county, and to conduct sales of lands for taxes when in arrear for three years. The proceeds of the collections and sales are paid to the local municipalities entitled thereto. In disbursing moneys, he is guided by statutory enactments and by by-laws or resolutions of the county council. For the due performance of his duties, each treasurer is required to give security. Salaries vary at present from $350 in Prince Edward to $1,600 in Middlesex, the average being $926.

Police Magistrates. Where a county council passes a resolution affirming the expediency of appointing a salaried police magistrate, the Lieutenant-Governor may make such an appointment. After the expiration of one year, the council may by resolution terminate the commission of magistrates so appointed. The Canada Temperance Act requires the appointment of a police magistrate wherever and so long as it is in force. The annual salary of a county police magistrate is $600 or such larger amount as the council may determine.

Court-Houses and Gaols. The most important single duty of a county council is to provide accommodation for the courts of justice and for the registrars of deeds.[1] York has this accommodation in the court-house and gaol of the city of Toronto, just as in the county of Wentworth the city of Hamilton controls the gaol. The council selects the gaol surgeon and provides the salary of gaol officials. Otherwise gaol appointments are made by the sheriff, a provincial appointee, the appointment of gaoler being, however, subject to the approval of the Lieutenant-Governor.

General Duties. The decisions of county councils are embodied at times in petitions to the legislature and to other counties for their co-operation. When the question is of special local importance, deputations are often appointed to wait upon members of the Government. Many of the bills introduced in the legislature, to amend municipal and other laws, are suggested by these discussions. The province also utilizes the adminis-

[1] Mun. Act, s. 506.

trative machinery of the counties in many ways, not only in connection with the administration of justice, but with education, expropriation of toll roads, the care of the indigent, etc.

County Rates. A county council may appoint valuators to assess the whole county;[1] or it may equalize or adjust the work of the local assessors so that the valuation of the taxable property in the different municipalities will be uniform.[2] The amount required is apportioned rateably amongst the local municipalities and collected with other taxes. The council also issues licenses, under regulations fixed by by-law,[3] for hawkers, pedlars, auctioneers, etc., carrying on business within the county.

Auditors. The county auditors, two in number, usually appointed at the first session of the council in each year, examine and report annually or as directed by the council upon the books and accounts of the county treasurer and all accounts affecting the corporation within its jurisdiction.[4] A special board, however, of which the county judge is chairman, audits quarterly before payment all accounts in connection with the administration of justice. A second examination of these accounts is made by one or more auditors appointed by the Lieutenant-Governor in Council,[5] for the purpose of preparing a statement of accounts for which the province is liable in whole or in part. These include accounts of sheriffs, Crown attorneys, court criers, coroners, constables, etc., for services in connection with the administration of criminal justice.

[1] Municipal Act, s. 310.

[2] Assessment Act, s. 87-95.

[3] Pedlars' License Fees:

County.	Travelling with 1 horse.	Travelling with 2 horses.	On Foot.
Oxford	$40	$60	$20
Middlesex	15	25	$1 to $5
Kent	25	45	$1 to $12
Norfolk	31	41	$20
Elgin	30	40	$10

[4] R.S.O., chap. 102, s. 6.

[5] R.S.O., chap. 104, and Totten's *Manual on Tariffs Circulars*, pp. 12 and 13.

Township Councils. The system of township municipal government is direct and effective. Candidates for the offices of councillor and reeve are nominated at a meeting of ratepayers held on the last Monday in December. The poll, if one is necessary, takes place on the first Monday in January. The first council meeting is held on the second Monday in January at the township hall or other place fixed by by-law of the corporation. In most townships regular sessions of one day each are held monthly. The principal duty of township councils is the construction and maintenance of roads and bridges. Their other duties are largely statutory, and include: (1) levying and collecting school and county rates and general taxes for township purposes, such as maintenance of roads and bridges, salaries, etc.; (2) the construction of drainage and other works at the expense of the properties benefited. Other minor duties are attended to by officers appointed by the council.

Assessors. These are appointed annually, to enroll and value taxable real and personal property. The "roll" must include the names of all persons entitled to vote at municipal or other elections. Assessors assist in the selection of jurors, and, in union school sections, determine the proportion of the school tax to be levied for each section.

Township Treasurer. The township treasurer receives and disburses corporation moneys, as directed by the council or provincial statute. In the districts without county organization, he is required to perform additional duties connected with the collection of arrears of taxes.

Township Clerk. The chief executive officer, however, is the township clerk.[1] He holds office during the pleasure of the council, but is generally looked upon as a permanent official whose experience is most valuable to a council. His duties include the preparation of collectors' rolls, and statute labour and voters' lists; the registration of births, deaths and marriages and other statutory duties connected with the Acts respecting

[1] Mun. Act, sec. 259.

pounds, line fences, drainage, assessment of taxable property, public schools, jurors, public health, etc.

Other officers are: collectors of taxes, local Boards of Health, pound-keepers, fence-viewers, auditors, valuators of sheep killed by dogs, fruit-tree and noxious weed inspectors, and commissioners for various purposes connected with the public works of the township.

Police Villages. When a portion of a township becomes thickly populated, there is need for some means of undertaking local improvements to roads and sidewalks and of applying certain sanitary and other regulations that cannot be extended over the whole township.[1] Where the population does not justify its being formed into a separate corporation, the Municipal Act provides for the setting apart of unincorporated villages and hamlets.[2] This offers simply a means of commuting statute labour and of securing local improvement works within the village. A better and more advanced step is the police village[3], which may be set apart by the county council on petition of the ratepayers interested and placed under the administration of three police trustees. The township council continues, however, to collect the annual taxes, though the village rate is struck in accordance with the money required by the trustees.

Town and Village Councils. The government of town and village municipalities is similar to that of townships. The legislature has, however, extended the powers of the councils to enable them to cope with conditions incident to the concentration of population within a limited area. The nomination of candidates and election of members of town and village councils are held in the same manner and on the same day as in other municipalities. Council meetings are held monthly in the town hall.

The duties of council multiply with increasing population. In the larger towns, control of the lighting, waterworks and

[1] *Municipal World*, June, 1900.

[2] Mun. Act, s. 37.

[3] Mun. Act, s. 713.

parks is usually in the hands of Boards of commissioners elected by the people, the mayor being *ex officio* a member of the various Boards. In other municipalities, committees of the council attend to these special duties, with the exception of public library administration. Under the provincial Public Library Act a public library is placed in charge of a Board composed of the reeve or mayor and three persons appointed by the council, three by the public school Board, and two by the separate (Roman Catholic) school Board, if there be any.

Town and village administration resembles closely that of township municipalities. A town treasurer differs, however, in caring for the collection of arrears of taxes and sales of land when taxes are in arrears for three years. The salaries paid municipal officials are modest. A statement prepared by Mr. W. G. Owens,[1] Clerk of Forests, referring to twenty-seven towns of between 1300 and 2900 population, shows that clerks' salaries vary from $90 to $575, treasurers' from $40 to $400, assessors' from $35 to $100, and collectors' from $20 to $120. In one town of 1600 population, the officials supply their own offices and the total salaries paid the four officials mentioned amount to $175. Municipal administration in cities as an expansion of town administration calls for no special reference here.

Boards of Health. One of the most important local authorities is the local Board of Health, first established by the Public Health Act of 1884. A Board of Health will be found now in every municipality.[2] In townships, villages and towns under 4,000 population, it is composed of the reeve, clerk and three ratepayers, who are appointed for three years and retire in rotation. In towns of 4,000 inhabitants, the Board consists of the mayor and six ratepayers, appointed for three years, two of whom retire annually. Provision is made for the formation of a health district by a union of municipalities and for the appointment of county or district medical health officers. As yet no advantage has been taken of this. If a municipal council

[1] *Municipal World*, March, 1902.

[1] Public Health Act, R.S.O., Chap. 248.

neglects or refuses to nominate a Board of Health, the provincial Board may make the appointments. Councils are also required to select a medical health officer and a sanitary inspector to act as officers of the Board of Health. No provision is made for payment of any other than these two officials. The medical health officer is the more important. He possesses the same authority as a member of the Board or as the sanitary inspector, and is required to perform all duties imposed upon him by regulation of the provincial or local Board.

When the abatement of a nuisance demands special precautions, it is the duty of the local Board of Health to notify the provincial Board to investigate and report. Municipal councils may vote such sums as are deemed necessary by local Boards of Health for carrying on this work. All municipal treasurers are required in addition to pay the amount of any order given by the members of a local Board of Health or any two of them for services performed under their direction by virtue of this Act. This provision prevents interference on the part of councils with the expenditures of the Board. If any serious epidemic breaks out in a municipality the local Board is furnished with expert assistance and advice. All by-laws of municipal councils respecting systems of sewerage or water supply have to be submitted to the provincial Board for their approval before taking effect. Every local Board reports annually to the provincial Board.

Justices of the Peace. The head of every council and all county councillors are *ex-officio* justices of the peace, for their county or union of counties.[1] Justices have jurisdiction in cases arising under by-laws in municipalities in which there is no police magistrate.

Houses of Industry. In the care of the poor some county councils assist the local councils.[2] In 1869 the first poor-house and farm was instituted by the county council of Waterloo. The example was followed by other counties.[3] The local municipali-

[1] Mun. Act, s. 473-478.
[2] Mun. Act s. 524.
[3] *County Poor Houses in Ontario*, by H. A. Harper (*Mun. World*, Jan. and Feb. 1898.)

ties were thus relieved of an expensive and troublesome duty. The provincial Government has encouraged the establishment of Houses of Industry by grants not exceeding $4,000 each, based on expenditure for buildings and land. All of the counties west and one or two of the counties east of Toronto are now provided with these institutions, and others are giving the matter their earnest consideration. Houses of Industry are by statute under control of the county council[1]; but in practice a special committee and an inspector are appointed for the purpose. The immediate supervision is left to a resident keeper and a matron, also appointed by the county council; and a consulting physician, who is retained at an annual salary. The typical House of Industry is a farm of from 45 to 125 acres situated within easy reach of a town. The building is, as a rule, a single structure, two or three stories high, built to accommodate from 80 to 100 inmates. Special attention has latterly been given to the complete classification of the inmates, a step which the low tone of morality among them makes necessary. The expense of maintaining inmates is met in either of two ways—(1) by a general tax to meet all the expenses of the institution; (2) by a general tax to maintain the farm and the buildings and a special assessment on local municipalities for the support of inmates sent from each. The payment of all expenses by a general tax appears more desirable. A great many inmates of these institutions are mere vagrants, of necessity committed from the municipality in which they become disabled. Efforts have been made to define eligible inmates as those who have been resident in the county or municipality for a stated period, usually two years. I believe the greatest benefit would be derived if all institutions were, under certain safeguards, open to both residents and transients. In counties where Houses of Industry have not been established, the gaols are unfortunately used as poor-houses.

HIGHWAYS AND STATUTE LABOUR.

The highways of the province may be classified as follows:—

1. Township roads constructed and maintained by general taxation with or without statute labour.

[1] R.S.O., chap. 312.

2. County roads constructed and maintained by general taxation of whole county.

3. Town and village streets constructed and maintained by general taxation and local improvement rates, paid by the property benefited.

4. Toll roads, maintained out of toll collected from persons using the road.

The problem of statute labour has been receiving much public attention of late through the demand for better roads. The opposition to statute labour has been gathering strength, and promises within a few years to make a radical change in the method of caring for roads.[1] The statute labour system is, without doubt, one of the best which could have been adopted in pioneer districts, and has done exceedingly good work. The Municipal Act now makes provision for substituting more suitable methods where original conditions have changed, as they have in many localities. The system of statute labour is fundamentally weak, in that it does not permit of effective control over the labour and money devoted to roads ; and on account of its method of payment being too vague to satisfy the demands of finance or the exigencies of modern road-building. In February, 1894, the movement for better roads assumed definite form at a meeting held in response to an invitation issued under the authority of the Canadian Institute, Toronto.[2] The Ontario Good Roads Association was formed, and a systematic educational campaign was for some years carried on. In April, 1896, the Government, at the request of the Association, appointed a provincial instructor in roadmaking to take charge of the work. The many meetings held in every part of the province have resulted in the abolition of statute labour in a large number of townships, and in others in an improvement in the method of work. Roadmaking machinery is now in general use, and improved methods of construction and maintenance are being introduced. In the towns and villages special attention has

[1] Report 1898 of Prov. Instructor in Roadmaking.

[2] Reports of Association and Prov. Instructor in Roadmaking.

been directed to the benefits to be derived from improved streets, with the result that many municipalities have already expended large amounts in their construction and the purchase of the plant necessary to continue the work.

County Roads. A most important duty of county councils is the maintenance of bridges on boundary lines and in villages (when the bridge is over 100 feet long), and of any roads or bridges assumed by by-law. County councils have in the past been largely interested in securing the construction of railways throughout the province, most of which have been assisted by way of bonus or stock subscription. The liabilities incurred have been now, in most instances, paid.[1] During the past few years the tendency of legislation has been to look more to the county council for the maintenance of highways. Some counties have already taken charge of roads. The most notable instance is Hastings, in which nearly 400 miles of road are at present maintained by county council according to modern methods. In the Act of 1901, by which the Ontario legislature set apart one million dollars for the improvement of public highways, a notable feature is the provision made for the improvement of highways by county councils, and the establishment of county road systems.

Toll Roads. A few relics of the past, called toll roads, are still in existence. At the instance of the Good Roads Association in 1895, the Ontario Government appointed a commission to report[2] on each road. In 1901, an Act to facilitate the purchase of toll roads was passed. The Act provides for expropriation proceedings and for paying for the roads by taxation on the whole or part of a county or township, or by the continuation of the tolls for ten years, or until the amount required to pay for the road is collected.

Trees on Highways. Municipal councils have authority to regulate the planting of trees on highways, and may encourage

[1] The amount of county debentures for aid to railways outstanding in 1891 amounted to $1,023,718; in 1900 this had been reduced to $258,500 (Report of Bureau of Industries, 1902.)

[2] This report was not published.

the same by a bonus not exceeding twenty-five cents for each and every ash, basswood, beech, birch, butternut, cedar, cherry, chestnut, elm, hickory, maple, oak, pine, sassafras, spruce, walnut or whitewood planted.[1] Provision is also made for the protection, trimming and removing of trees planted on highways, when necessary.[2]

Fences. They are also empowered to regulate the erection and maintenance of fences along highways. The Snow Fences Act provides that, when fences are found to cause an accumulation of snow or drift so as to impede travel on the highway, councils may require their removal, and may pay for the construction of some other fence of approved description.

Weeds. The cutting of weeds on the highway is usually supervised by pathmasters. Councils are authorized to appoint inspectors to see that weeds harmful to agriculture are cut. Little special attention is paid to this duty in some districts, landowners being themselves sufficiently interested.

Cattle at Large. To ascertain and determine in what manner and for what periods horned cattle, horses, sheep and swine, or any of them, shall be allowed to run at large, or to resolve that they or any of them shall be restrained from so doing, was one of the first legislative powers conferred in 1793 on what was called the Annual Town Meeting. The Act respecting pounds is in force in every municipality until varied by municipal councils, who may pass by-laws for restraining and regulating the running at large of animals, establish pounds and appoint poundkeepers. The result of this is that each municipality makes its own regulations. Villages usually allow milch cows to run at large; some townships prohibit all cattle from running, though the prohibition is seldom enforced. In some townships, notably in the county of Oxford, a popular regulation,[3] which has been approved of by the courts,[4] is to

[1] Ontario Tree Planting Act, R.S.O., Chap. 243.
[2] Mun. Act, sec. 574.
[3] *Mun. World*, January, 1898, and October, 1900.
[4] Ross *vs.* E. Nissouri (Ontario Law Reports, Vol. I., page 353).

allow milch cows to run at large during the day-time from the first of May to the first of December, upon payment of a fee for a tag, usually about $2.

Poles and Wires on the Highway. Up to a few years ago little attention was paid to the telegraph and telephone poles and wires along the highways. During recent years, however, the construction of electric railways has proved to be a serious inconvenience to vehicular travel, especially during the winter. Accordingly, under the present General Electric Railway Companies' Act, the erection of tracks, poles, etc., on the highway is a matter for agreement with the council. All owners of land upon a highway on which a railway is projected are to have notice before the council enters into any understanding with regard to it. Provision is made for a Railway Committee of the Executive Council of Ontario, to whom anybody may appeal against the passing of a municipal electric railway by-law prejudically affecting his property.[1]

Actions for Damages Caused by Accidents. The present highway law of Ontario practically insures against accident everybody travelling on the highways. The section of the Act making the municipalities liable was introduced in 1850 with reference to roads in cities and towns, and in 1859 was included in the Municipal Act. A new sub-section was, however, added relating to accidents arising from persons falling owing to snow or ice upon sidewalks. The control over the highways of the province was then in a transitory state. Municipal institutions were in their infancy, and it was thought that the councils would not be able to maintain the roads. This resulted in the formation of a great many toll-road companies to take charge of the main highways, which had been or were still in some cases under the control of the Minister of Public Works, and to relieve municipalities of liability for non-repair. The road mileage

[1] The Act respecting Electric Railways (2 Edward VII, Chap. 27), appoints a Railway Committee of the Executive Council of Ontario, composed of three members, with the Commissioner of Public Works as Chairman. This committee has jurisdiction over electric and street railways. To it have fallen also the powers conferred upon the Lieutenant-Governor-in-Council by the Railway Act, the Street Railway Act and the Electric Railway Act.

throughout Ontario has gradually increased and during recent years the municipal authorities have taken over most of the toll roads. In some localities actions for damages have under these circumstances become so numerous that public attention has been directed to the misapplication of corporation funds for law costs and damages. There appears to have been some misunderstanding in reference to precedents for the section making municipalities liable. It was no doubt copied from the laws of one of the United States and afterwards looked upon as being in accordance with English law. Mr. Biggar, editor of the *Municipal Manual*, remarks in this connection that the common law obligation of parishes in England to repair their highways did not involve the existence of a civil liability to any one sustaining injury owing to the non-repair of such highway, and that a person injured by mere non-repair of a road can sue the municipality only if the legislature gives him a right of action.[1] It has been suggested that persons travelling on the highway should do so at their own risk, as in England and in other Canadian provinces, and that the legislature should so amend the the present law.

PROVISIONS FOR EDUCATION.

Public Schools. Each organized township divides its district into school sections, and the ratepayers of each section elect a governing body of three trustees at the annual school meeting held on the last Wednesday in December. The trustees hold office for three years and retire in rotation. Sometimes adjoining sections in different townships unite to form what is called a union section.[2] Each Board of trustees submits to the township council, on or before the first day of August, an estimate of the expenses of the schools under its charge, together with a requisition for the moneys required for the ensuing year. The township council levies and collects these amounts in two ways: (1) by general rate on the public school supporters of the whole township, the sum of $150 for each

[1] Biggar's *Municipal Manual*, p. 833.

[2] Public School Act, 1901.

school that has been kept open the whole year and a proportionate amount where the school has been open for six months or over, an additional sum of $100 being collected in the same manner for every assistant teacher engaged for the whole year and a proportionate amount for those engaged for six months or over; (2) by special rate on the property included in the school section to raise the balance required over and above the amount coming to the section from the general rate. In unorganized townships the public school inspector for the district may form a portion of a township or of two or more adjoining townships into a section, which must not exceed five miles in length or breadth. In addition to the ordinary duties, the Board of trustees appoints an assessor to prepare a roll of the taxable property in the section and a collector to collect the school rates imposed by the Board. Provision is also made, at the option of the township councils, for the management by a central Board of all schools in districts composed of more than one organized township not in a county. In towns and incorporated villages the Board of trustees is composed of at least six members elected for two years. Provision is made for election by wards, two members for each. The territory contributing to the maintenance of the school may include the town or village and parts of one or more adjoining sections. The annual school meeting is held on the last Wednesday in December, the trustees being elected by open vote on the first Wednesday in January following unless the Board has, by resolution, required elections to be by ballot.

Separate Schools. In addition to the public schools, the laws of the province[1] provide for Protestant, Roman Catholic and coloured separate schools. Protestant and coloured separate schools may be authorized by the council of a township, town or village, upon the application of five or more heads of families. On like conditions at least five persons, being Roman Catholics and heads of families resident in any school section, village, town or city, may convene a public meeting and elect trustees

[1] R.S.O. 1897, chap. 294.

to establish and manage a separate school. This is in accordance with section 93 of the British North America Act, which reads: "In and for each province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons may have by law in the province at the Union . . ." Notice of the election of the trustees is required to be given in writing to the head of the municipality and the chairman of the public school Board. All supporters of separate schools must reside within three miles of the schoolhouse and be designated as separate school supporters in the assessment roll. The government of separate schools is the same as that of public schools, except that it is optional with the trustees to collect the school rates or leave it to the council of the municipality.

Inspectors. The inspectors of public schools are appointed by the Board of trustees in cities and separated towns and by county councils for the whole county or for each electoral division. They must hold certificates of qualification as prescribed by the regulations of the provincial Education Department, under which, in fact, all public schools are conducted. An inspector cannot have charge of more than one hundred and twenty schools or less than fifty. He visits each school once a term (twice a year) and reports annually to the Minister of Education. The Education Department or the county council may require of him certain other duties in connection with his office. He may be dismissed by the Lieutenant-Governor in Council, or by the county council on a two-thirds vote. An inspector is paid $5 for each teacher in his district occupying a separate room and a supplementary amount by the provincial Government, besides reasonable travelling expenses as determined by the county council. Separate school inspectors are three in number, appointed for the province by the Lieutenant-Governor in Council in accordance with the regulations of the Department of Education.

High Schools. County councils may divide a county into districts and may, subject to the approval of the Lieutenant-Governor in Council, establish high schools in any municipality containing not fewer than 1,000 inhabitants and may in like manner discontinue any high schools already established. City councils also have authority to establish these schools. The Board of trustees for the management of a county high school consists of at least six trustees, three appointed by the county council and additional trustees appointed by the municipality or municipalities composing the district.[1] In cities and and towns separate from the county, the council appoints the trustees. Where a high school situated in a city or town separate from the county is open to county pupils, the county is made liable for their maintenance and may appoint three additional trustees. Separate and public school Boards also have the right to appoint representatives on the high school Board. Trustees hold office for three years and perform the same duties as public school trustees. Provision is made for the union of public and high school Boards, forming what is known as a Board of Education, which has jurisdiction over all the schools in the municipality. When a high school has adequate buildings and equipment and among its teachers has specialists in classics, mathematics, sciences, modern languages and commercial studies, it may be raised to the status of a collegiate institute. The maintenance of high schools is provided for in different ways:

1. By a rate levied on the municipality or district in which the school is situated.

2. By fees, payable by pupils, the amount of which is determined by the county council or the Board of trustees.

3. By county grants.

4. By legislative grants.

There are at present 96 high schools and 38 collegiate institutes in the province.

Legislative Grants. The legislature makes large grants to the schools of the province as noted below. Those to public

[1] High Schools Act, 1901.

schools are distributed to the municipalities in proportion to population and apportioned to the schools in townships by the inspector on the basis of attendance. Provision is also made for special grants to poor schools, and schools to which pupils who have completed the public school course are enabled to continue and take up high school work. The special grants are in all cases supplemented by the local, municipal or county council. Legislative grants to high schools are apportioned on the basis of equipment, efficiency, attendance, etc., as reported by the provincial inspectors.

School Statistics for 1900.

Class of School.	Number.	Total Expenditure.	Government Grant.
High schools	93	319,368	58,565
Collegiate Institutes	38	399,233	44,634
Public schools:			
Counties and districts	5265	2,469,416	241,893
Cities	167	1,149,042	55,070
Towns	223	610,073	43,983
Roman Catholic separate schools:			
Counties and districts	225	98,623	11,689
Cities	76	185,921	11,744
Towns	54	74,006	5,520
Protestant separate schools	7	4,061	258
Totals	6148	$5,309,743	$473,356

FINANCIAL STATISTICS.

Assessment, Assets and Liabilities. Statistics of the assessment, taxation and financial position of all municipalities appear in the annual reports of the provincial Bureau of Industries. The report for 1902 shows that the rate of taxation in townships, towns and villages has remained practically unchanged during the past ten years; that the debenture indebtedness of counties has decreased 37 per cent., that of townships 18 per cent., while that of towns and villages has grown 65 per cent., and that of cities 35 per cent. This increase is owing to the installation of waterworks and lighting plants and the construction of sewerage systems, improved streets, etc. The fol-

lowing table gives the figures of assessment and taxation for 1901:

Municipalities.	Assessed Values.				Taxes Imposed for All Purposes.		
	Real Property.	Personal Property.	Taxable Income.	Total.	Total.	Per head.	Mills on $.
1901.							
Townships	$456,406,064	$2,161,826	$ 244,036	$458,811,926	$4,862,630	$4 45	10.6
Towns	91,000,970	7,417,856	1,502,551	99,921,377	2,330,691	7 05	23.3
Villages	27,649,258	1,962,180	288,545	29,849,983	389,798	4 65	19.8
Cities	221,342,063	18,252,096	7,520,212	247,114,371	5,558,236	11 59	22.5
Total	$796,398,355	$29,793,908	$9,505,344	$835,697,607	$13,341,355	6 58	16.0

The principal items of receipts and expenditures indicate the direction of the chief municipal activities. These were for the year 1900:

Survey of Municipal Receipts for 1900.

	Counties.	Townships.	Villages.	Towns.	Cities.	Total.
Municipal and school taxes	.....	$4,812,372	$ 562,027	$2,208,081	$ 5,600,710	$13,203,140
Debentures sold	$ 77,491	316,409	96,506	1,301,755	1,417,238	3,208,399
Loans for current expenses	472,430	642,259	204,886	2,619,547	2,968,425	6,907,547
Licenses (liquor and other)	15,206	41,736	27,571	94,073	143,565	322,151
Fees, rents, fines, etc	12,306	14,265	10,234	65,994	472,885	575,683
Water and electric light rates, etc	.....	.....	25,659	344,288	980,039	1,349,986
County rates	1,099,357	.....	.....	.....	.....	1,099,357
Separated towns and cities for administration of justice, etc.	89,910	.....	.....	.....	.....	89,910
Prov. Government for schools	142,954	.....	.....	.....	.....	142,954
Do. for administration of justice	138,685	.....	.....	.....	.....	138,685
Total revenue, all sources	$2,472,581	$6,594,818	$1,091,901	$7,231,801	$13,666,504	$31,056,555

Municipal Expenditures for 1900.

Roads and bridges	163,110	894,104	145,915	677,624	1,884,182	3,764,935
Building and other works, etc.	78,813	300,397	10,768	81,576	197,132	618,686
Poor relief	103,862	54,417	6,249	42,348	199,077	405,953
Board of health	.....	24,378	3,240	29,300	71,332	128,250
Administration of justice	433,768	.....	8,261	82,483	560,397	1,084,909
Education	362,375	1,984,747	214,789	702,112	1,430,853	4,694,876
County rates	.....	953,191	38,553	91,554	.....	1,083,298
Int. paid and debent. redeemed	220,688	521,661	129,198	961,475	3,097 276	4,930,298
Loans for current exp's repaid	505,200	558,286	188,710	2,279,029	2,033,864	5,565,039
Water works and electric light plant construction	.....	.....	55,754	659,007	644,059	1,358,820
Total expenditure all acc'ts.	$2,279 536	$6,019.761	$992,417	$6,910,776	$13,440,598	$29,643,088

The assets of counties, townships and villages exceed the liabilities. In towns and cities the liabilities exceed the assets.

Principal Assets of Municipalities in 1900.

	Counties.	Townships.	Villages.	Towns.	Cities.	Total.
Cash	$ 192,995	$ 574,557	$ 99,484	$ 320,525	$ 225,906	$ 1,413,467
Taxes in arrears	489,635	1,285,700	110,982	683,365	2,172,564	4,742,246
Lands, buildings, etc	3,267,068	429,001	563,396	3,003,493	14,681,608	21,944,563
Waterworks, electric light plant	.....	.....	542,864	4,408,418	11,299,342	16,245,624
Total assets all accounts	$4,397,636	$4,422,233	$1,572,949	$11,829,810	$42,973,910	$65,196,538

Principal Liabilities of Municipalities in 1900.

County levy	.....	380,823	18,606	37,959	.....	437,388
School rates, grants	7,657	278,484	52,303	196,068	30,543	565,055
Debentures, aid to railways	258,500	509,475	36,768	528,270	2,356,533	3,689,546
Schools	.....	458,945	265,727	845,272	2,599,439	4,169,382
Local improvements	.....	.....	.....	.....	8,695,233	8,695,233
Other purposes	1,459,491	1,585,747	885,424	10,316,994	26,370,985	40,618,641
Loans current	300,807	304,074	107,716	1,196,289	2,693,978	4,602,864
Non-resident taxes due	.....	.....	.....	.....	.....	.....
Local municipalities	11,295	.....	.....	.....	.....	11,295
Total liabilities all accounts	$2,104,092	$3,717,495	$1,410,326	$13,320,326	$44,388,596	$64,940,835

The large sums and varying privileges which many municipalities have granted to commercial enterprises by way of bonus to secure the establishment of new industries cannot be classed.

The League of Canadian Municipalities has made the novel and interesting suggestion that the provincial Government should assist municipalities in selling their debentures. The suggestion is consistent with the development of our municipal system. County councils are authorized to guarantee debentures of any municipality within the county. A provincial guarantee would necessarily entail some central supervision.

THE COUNTY COUNCILS ACT OF 1896.

Under the old system of representation, county councils were becoming so unwieldy that it was difficult to transact business expeditiously, and the expense of holding meetings was heavy. In some cases the representation in the county council of small incorporated municipalities was out of all proportion to their interests in county taxation. The question of county council reform was considered by the legislature for a number of years. At the session of the legislature in 1886 no less than three bills relating to the subject were introduced. The main idea of the Act of 1896 is that every member of a county council shall be a representative of the whole county. This was often lost sight

of by the representatives of the local municipalities composing the county council. The Act reduced the size of county councils generally by changing the basis of representation from that of local municipalities to districts, into which all the counties were divided by a Commission, composed of county judges. The number of districts in each was determined by population. In fixing the boundaries of districts the assessed value, population and extent of territory were considered. Besides the *personnel* of the members being improved a saving was effected through the smaller size of councils of about 39 per cent. (over $26,000) of the former expenditure for attendance at meetings and committees of the council. Under the old system, a man's conduct in the township council, with which the people were best acquainted, was the main factor in his re-election. County business was usually passed over. Now, however, ratepayers have to consider directly the duties and expenditure of the county council. The change has, in most cases, proved to be satisfactory except in counties where it was found impossible to form all of the districts out of adjoining municipalities.[1] A more general criticism is that the present separation of the county council from the local municipal councils lessens the importance once attached to a reeveship or deputy-reeveship. The old system, moreover, permitted members from the various local councils to come together and bring their joint experience to bear on the problems of township administration. In this way, no doubt, the development of township government was greatly assisted. A like result could still be obtained, in large measure, by a longer term of office for members of local councils. A county councillorship is now looked upon as one of the most desirable promotions to which a municipal councillor can aspire. Election by a larger district and for a period of two years makes the position especially attractive. Judging from the frequent re-elections, the smaller councils are giving satisfaction. In January, 1901, 42 per cent. of the county council-

[1]District No. 4 Halton is composed of Milton, town; Acton, village; and Nassagaweya, township. These are not adjoining municipalities.

lors of the province were re-elected and in 30 counties, or 70 per cent. of the whole, this percentage was increased to one-half or more. The legislature has been urged to abolish district in favour of municipality representation, with power to vote on all financial questions in proportion to equalized assessment. This is a survival of one of the arguments used when the County Councils Act was considered. It has also been suggested that the optional principle might be introduced and the ratepayers of a county allowed to decide in favour of a new system of representation and election before the present one is changed

The municipal institutions of Ontario, during their comparatively brief life, have adapted themselves closely to local requirements. As a result, though still undergoing slight local modifications from year to year, they have reached a high state of perfection. Three important changes appear to be necessary, if this enviable record is to be maintained: I. The election of members of all municipal councils for a longer term than one year; II. A more efficient audit of municipal treasurers' accounts; III. The establishment of a provincial Local Government Board.

I. The length of time for which municipal councillors are chosen should be governed mainly by considerations of securing popular control and maintaining an experienced and capable council. In the province of Quebec[2] the councils of parishes, townships, towns and villages are composed of seven members, who remain in office for three years, subject to the condition that two councillors must be elected or appointed two years consecutively and three every three years. The mayor, or head of the council, is elected by a majority of the council and holds office for one year. In Nova Scotia, New Brunswick, Manitoba and British Columbia, county councillors are elected yearly.

[1] The Ontario legislature has just (1903) adopted the optional idea. A majority of the councils of the local municipalities in a county may now decide to have their county councils composed of the various reeves and mayors. Under these circumstances the reeves and mayors have voting power on financial questions in proportion to the equalized assessment of municipality represented.

[2] Bourinot, *How Canada is Governed*, p. 224.

In Nova Scotian towns the mayor is elected annually and a councillor every two years. In certain Canadian cities, as noted in a former article of this series,[1] aldermen are already elected for two and three-year terms. The number of re-elections of municipal councillors in rural Ontario is very noticeable. At the annual elections in January, 1902, two-thirds of all councillors in office during the previous year were re-elected; in the townships alone 80 per cent. This probably indicates that legislation providing for a term of at least two years would meet with popular support. Retirement of half the council every twelve-month would secure at once that measure of continuity of municipal government which is essential, and remove a great obstacle, the turmoil of annual elections, now preventing many able men from entering the council. The County Councils Act of 1896 introduced indeed a full two-year term. A slight amendment is all that is now necessary.

II. The appointment of a provincial municipal auditor has met with general approval. But in order to establish a proper system of accounts in every municipality competent local auditors are necessary. Under the present law, local auditors are appointed annually. Capable men are, however, rarely available, either on account of the small fees usually allowed to auditors or for more potent reasons. The appointment of a municipal auditor for each county, or for a union of counties, to act with or without the auditor selected yearly by each municipal council, would enable the provincial auditor to co-operate in introducing a uniform system of bookkeeping and efficient audits throughout every municipality.

III. In Old World countries central control of municipal government has been found necessary. The Local Government Board of England furnishes a convenient example. Mr. Albert Shaw's reference to it may be repeated here:—

"The relationship that now exists between the municipal administration and the central government at many points is advantageous rather than hampering to the local corporation... Through the medium

[1] Wickett, *City Government in Canada* (University of Toronto Studies, History and Economics, vol. II., No. 1.)

of the local government board, its regular publications, its permanent staff in the London offices, and its expert visiting inspectors, the officials of one town are supplied with knowledge of the doings and experience of other towns, are deterred from harmful experiments, and are instructed in the best methods. At times it appears a needless interference with local affairs that compels a well-governed city to submit to the central authorities for inspection and approval every scheme whatsoever that necessitates the borrowing of money. If there were any lack of system in the methods by which local projects are passed upon by Westminster, or if there were any serious taint of partisanship, favouritism, or arbitrary judgment upon the processes employed, the mechanism would break down speedily and a more complete local autonomy in matters involving municipal outlay and indebtedness would have to be accorded, but the system works in the interests of justice, and its costliness in money and in time is counter-balanced by the benefits which accrue from the more thorough preliminary sifting that every scheme receives in preparation for the searching ordeal at Westminster, and from the valuable examinations which so often result from the advice that expert central officials can give." (*Municipal Government in Great Britain*, p. 68.)

Another well-known American student of municipal problems holds a like view:—

"A brief consideration of the effects of the establishment of the central administrative control in England cannot fail to force the conclusion that the frank recognition in the recent English legislation that the state as a whole has a vital interest in the performance by the local authorities of any of the functions of government entrusted to them, and the subjection of such functions of government to central administrative supervision have been among the causes which have transformed English social and political conditions during the past century. The marked improvement in English local government, the great increase of its efficiency, have been secured also without an undue centralization, without diminishing local public spirit which, as seen in the actions of the English municipalities, was at no time in English history greater than it is at present. While in America we have been extending the powers of the legislature over our cities, largely as a result of the previous decentralization of our administrative system, until municipal administration has, from the point of view of legislative interference therein, come to be regarded almost as a part of general state administration, England has turned aside from her historic administrative decentralization, her local self-government, and after continental examples has absolutely entered upon the pathway of administrative centralization wherever the needs of administrative uniformity have made such a step seem necessary. The result has been to reduce legislative interference in local government to a minimum, to increase enormously the efficiency of local government, and, by clearly differentiating the state agency of cities from their sphere of action as local organizations, to open the way for a great expansion of municipal activity to be seen in the vigorous way with which the English cities have grappled with distinctively municipal problems, such as housing of the poor, and the better care generally of the local interests of their inhabitants." (M. R. Maltbie in Goodnow's *Municipal Problems*, Chap. vi.)

The idea of a system of central supervision of local authorities is not in opposition to the general plan of our municipal institutions. It has already been introduced to some extent in Ontario and has proved beneficial. The provincial Board of Health, established in 1881, is a central administrative authority, composed of experts having power:[1] (1) to supervise the health Boards of the province; (2) to appoint health officers; (3) to issue regulations, subject to approval of the Lieutenant-Governor in Council, for the prevention of disease, which after publication in the *Gazette*, have the same effect as if enacted by the legislature; (4) to institute proceedings for the abatement of a nuisance when the local Board refuses or neglects to act; (5) to approve of all plans for the establishment of water supply or sewage systems before they can be lawfully adopted by the councils of cities, towns or villages. The provincial municipal auditor[2] is an administrative officer, having the general supervision of books and accounts of the municipal and school corporations of the province, with power to frame rules respecting the manner in which the accounts of municipalities shall be kept and audited, and the number and forms of books of account to be used. After publication in the Ontario *Gazette*, these rules have the force of law. The provincial instructor in road-making is an official whose duties are largely educational and advisory. The secretary of the Bureau of Industries for statistical purposes receives annually reports in reference to assessment, taxation and financial transactions of every municipality. The Railway Committee of the Executive Council of Ontario may consider municipal by-laws relating to location of electric railways, etc. The report of the provincial Assessment Commission includes a recommendation[3] for the appointment of a provincial Board of Assessment Commissioners to assess the lands of railway companies and companies using the highways and to report annually in reference to the manner in which the assessment

[1] Public Health Act, R.S.O., Chap. 248.

[2] R.S.O., Chap. 228, "To make better provision for the keeping and auditing of municipal and school accounts."

[3] Report, 1902, page 36.

laws are enforced. The suggestion recalls the State Boards of Equalization of the United States. The Commission also refers to the necessity for a local government Board as follows:

"Municipalities would seem to be already too inclined to undertake without adequate technical knowledge local works and enterprises in the nature of permanent improvements, in the over-sanguine hope that increasing prosperity may cause the debts incurred for such enterprise to bear lightly on the taxpayer. Immediate liquidation of debts for matters not in the nature of permanent improvements should, at all events, be a rule in municipal administration, but it may be doubted whether that is a rule at all generally followed. On the contrary, it is to be feared that the debenture debt of many municipalities, if examined, would be found to include sums which should not have been carried over to swell the tax of future years.

"Some governmental supervision of contemplated permanent improvements might with public advantage be provided (as under the Local Government Acts in England) so as to require, as a condition precedent to the undertaking of such enterprises, the previous approval of a properly constituted Governmental Board."

The work of such a Board would be largely supervisory and educational, though certain powers of control would necessarily be conferred subject to legislative revision. Its benefits ought to be many. The co-opting tendencies in Ontario municipalities would thus find legitimate and helpful expression.[1]

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[1] Cf. *Municipal World*, Jan. 1903, p. 5, for a fuller presentation of the writer's suggestion in this connection; and also *The Financial Control of Local Authorities*, by Percy Ashley (*Economic Journal*, June, 1902), *The Growth of the Local Government Board*, by Sir Michael Foster, (*Nineteenth Century*, January 1903), *A State Municipal Board*, by Prof. J. H. Jenks (*Municipal Affairs*, Sept. 1898).

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S. MORLEY WICKETT, PH.D.

LECTURER IN POLITICAL ECONOMY, UNIVERSITY OF TORONTO

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NOTE.—Besides these publications it may be noted that every municipality issues at least one annual report. In the larger cities the Minutes of the Council are printed and bound.

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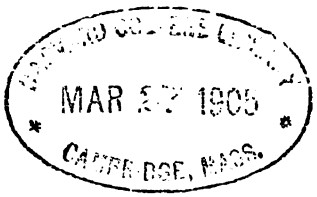

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General Editor: H. H. LANGTON, B.A., Librarian of the University.

PREFATORY NOTE.

Probably it is not too much to say that the most important single fact in the history of public administration during modern times is the rise of local government. A matter of significance and interest is then the evolution of a system of local government in any country, young or old, and particularly in a federal country such as Canada, for it means there a high state of organization, sub-division of power, wheels within wheels. In the present series of municipal studies, begun two years ago, three new articles on Canadian municipal government are added. In the opening paper Mr. Alan E. Ewart, a member of the Manitoba Bar, traces the history of local government in Manitoba. I have supplemented this by a brief account, in the second paper, of municipal legislation in the North-west Territories. The Honourable R. Stanley Weir, D.C.L., City Recorder of Montreal, and one of the foremost authorities on Quebec municipal law, contributes the third study on municipal institutions in the Province of Quebec. Finally to the general bibliography of Canadian municipal government published in the last number I have made some additions.

The University of Toronto.

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THE MUNICIPAL HISTORY OF MANITOBA

BY

ALAN C. EWART

THE MUNICIPAL HISTORY OF MANITOBA

Ever since the formation of the province in 1870, the inhabitants of the territory now comprised within the limits of the province of Manitoba have enjoyed a large measure of self-government. Manitoba originally formed part of Rupert's Land, an area granted by royal charter in 1670 to the "Governor and Company of Adventurers of England trading into Hudson's Bay," popularly known as the Hudson's Bay Company.[1] The first sign of a new order of things in Rupert's Land was the Company's grant to Lord Selkirk in 1811 of certain territory described as the District of Assiniboia. The Red River Colony was established next year, when a number of settlers arrived from the north of Scotland and Ireland. A further settlement of Swiss and French-Canadians followed soon after. Down to the year of his death in 1821, Lord Selkirk exercised full control as to granting freehold estates to the early colonists, and this right was protected by his executors until the Hudson's Bay Company repurchased the territory in 1836. Full authority in all judicial, legislative, and administrative matters in the District of Assiniboia now passed to the Company, which continued for more than thirty years to exercise control except within the limits of the Red River Colony. The Colony's affairs were managed by another body or corporation, constituted in 1835 with the consent of the Company, and known as the Council of Assiniboia. Up to the time of the transfer of the territory to the Dominion this council was both law-maker and administrator. The records show that in all respects the district was self-governed. There were, for example, provisions for the punishment of offences by fine, for the administration of justice, for the levying and collecting of customs duties, for postal arrangements and for the sale of liquor.

Negotiations by the Government of Canada for the surrender of Rupert's Land and the North-Western Territory and for the extinguishment of all the rights of the Hudson's Bay Company therein culminated in the surrender of that Company's

[1] See Beckles Willson, *The Great Company* (London, 1900); George Bryce, *The Remarkable History of the Hudson's Bay Company* (London, 1900); Houston's *Constitutional Documents*, and Bourinot's *Manual of the Constitutional History of Canada.*

rights to the Imperial Government in 1869 for a consideration of £300,000 and one-twentieth of the lands in the territory. Canada accepted the agreement on the 23rd of June, 1870, and an Order in Council declared that from and after the 15th day of July, 1870, Rupert's Land, which included the District of Assiniboia, should, upon certain conditions, be admitted into and form part of the Dominion. The laws of England in force on that date were declared to be the law of the new province.

At that time Manitoba had a mixed population of 2,000 whites and 10,000 *métis*, or French half-breeds. The new province comprised an area of 13,500 square miles, since extended to 73,956 square miles. The population in 1901, according to the census, was 255,211; it is now (1904) estimated at 330,000. In 1870 the Canadian Parliament passed the Manitoba Act, by which the boundaries were defined and the general powers of the province set forth. The Act provided for three great provincial highways, viz. the north and south road from Lake Winnipeg to Pembina, passing through what is now the city of Winnipeg (then Fort Garry); a western road from Fort Garry to the western limit of the province, and a third or eastern road from Fort Garry eastward to the Lake of the Woods. It also provided for the laying out of new roads by order of the Lieutenant-Governor in Council. Compensation was to be made to persons whose land was taken, an appeal being provided for to the courts in case they were not satisfied with the compensation allowed. By a statute of 1881 the roads of the province were handed over to the various municipalities, which were charged with their maintenance and repair, and incidentally held responsible for damages arising in connection therewith.

General Municipal Legislation

In the year 1871 the first legislature of Manitoba was called together by the Honourable A. G. Archibald, Lieutenant-Governor, and among other enactments it passed the County Assessment Act. This Act provided that the county assessors of the five counties of the province,[1] being called to-

[1] Selkirk, Provencher, Lisgar, Marquette east and Marquette west.

gether annually by an officer called the clerk of the peace, within twenty-five days after sitting of the court of sessions (which was held quarterly at Fort Garry), should make out one general tax-roll for the whole province.

The machinery of assessment was novel and interesting. At the court of sessions the grand jury presented a statement showing the amounts required in the various districts of the county for maintenance of roads, bridges, ditches, and other necessary public enterprises. The clerk of the peace then apportioned the required amount among all persons on the assessment roll in accordance with their respective assessments, but no tax of less than twenty-five cents was to be levied. The tax-roll being completed, the constable collected the taxes.

This manner of assessment was primitive enough. It may be thought strange that with the municipal experience of the older provinces of eastern Canada as a guide the legislature should have adopted this method ; but it must be borne in mind that less than thirty-five years ago the province of Manitoba was but a wilderness with a scattered and mixed population of only 12,000, and that the legislators were personally acquainted with most of the heads of families in the country.

In 1871 also the Parish Assessment Act was passed, providing for the division of the counties into parishes. These parishes consisted of the families whose houses were gathered round the parish church. If a purely local improvement was desired the heads of families met together in a public meeting and expressed themselves in a formal resolution to the clerk of the peace, who thereupon assessed all the inhabitants within a certain radius for the cost, and the work was carried out at once.

In the early days the grand jury in Manitoba was an important body, and its functions were more varied and important than at present. Nowadays it merely passes upon the indictments presented to it by the Crown and makes a formal visit to the jails and certain charitable institutions, but takes no part whatever in the government of the country. It was different in 1872. Among other things it fell each year to the

jury at one session of the court of sessions to present three names to the presiding judge and ask him to select one of them to be treasurer of the county. The jury also submitted nine names, from which the judge selected three as assessors. In the same way surveyors of highways, pound-keepers and constables were appointed. All sums necessary for public works within the county were likewise submitted to the court. There was then no such thing as a county or municipal council. If the jury failed to make any of the presentments, the judge reported the fact to the Lieutenant-Governor in Council, by whom the appointments to the vacant posts were then made.

In 1873 the legislature passed its first general municipal Act. This provided that on petition to the Lieutenant-Governor in Council by two-thirds of the male freeholders twenty-one years of age in any locality where there were not less than thirty such freeholders, letters patent of incorporation should be issued constituting a local municipality with necessary powers for the election of local councillors and officers, for raising and spending the revenue of the municipality, for constructing bridges, slaughter-houses and drains, abating nuisances and all such matters as we now understand to be within the sphere of local government. The powers of the municipalities were restricted, however, as regards taxation, to one per cent. of the real estate value. Returns to the Provincial Secretary, giving full details of the affairs of the municipalities, including vital statistics, were required to be made annually; this, however, has never been adequately done.

Ten years later (1883) the municipal organization of the whole province was revised. The province was divided into twenty-six counties, and these again were grouped into three judicial districts. Each county had a county council and the usual county officers as in Ontario, the Act itself following very closely the Act then in force in Ontario. In fact, so closely was the scheme in operation in the older provinces followed that it was found that many of the provisions which then became law were inapplicable to the western country. The Act failed to specify fully the jurisdiction of the various bodies

and the local and county councils consequently came into collision. Objection was also taken to the increased expense of the double system, while the inconvenience in getting quorums at the county councils on account of distance interfered greatly with the transaction of municipal business. Some of the less populous counties were joined together for the purpose of land registration and county courts. The three judicial districts, eastern, western, and central, up to that time in existence without proper legislative authority, were now confirmed, and court-houses and jails directed to be built in each. The county wardens and the mayors of all incorporated towns and cities within each judicial district were formed into what was called a Judicial District Board and given general charge of the court-house and jail. Each district board prepared a statement of the amount required to maintain its establishments, and the amount was levied upon its group of counties.

This combined county and district system, however, caused some dissatisfaction, owing to the imported system of local government not being suited to the circumstances to which it was applied. After three years' trial, therefore, the district boards were abolished in 1886, and a return was made to the old system. It is at this point that the final break was made from the established order of things in Ontario, and the present system adopted of division of the country into smaller districts called rural municipalities. The functions which were performed by the district boards are now carried on under the direction of the department of the Attorney General.

Incorporation of Winnipeg.

The general Municipal Act (Cap. 116, R.S.M. 1902) provides the law for all municipalities, both rural and otherwise, except the city of Winnipeg, which received its charter in 1902. The city had been incorporated, indeed, by special Act of the legislature in 1873, and continued down to 1902 subject to the general Municipal Acts of the province, although from time to time it was declared that certain clauses of these Acts

as passed did not apply to it, and certain other of the clauses of the Acts were inserted for application only to Winnipeg. The latter clauses are now omitted from the Municipal Act and are found in the city charter.

Number and Area of Municipalities.

From the small beginnings which have been noticed the country has increased rapidly both in population and area. In place of the five original counties, the province is now divided into eighty-seven rural municipalities, two city municipalities, Winnipeg and Brandon, and twenty town and village municipalities. The necessary population of a city is 10,000, of a town 1,500, and of a village 500 within an area of 640 acres.

The areas and populations of the municipalities vary widely. The largest municipality in point of area is Arthur, with 576,960 acres, of which 204,000 acres are taxable, and it has a population of 1,807. The municipality of Kildonan is the smallest, with 19,000 acres, of which 17,916 are taxable, and has a population of 1,419. Two municipalities have over 500,000 acres, one between 300,000 and 400,000, three between 200,000 and 300,000, thirty-nine between 100,000 and 200,000, and the others under 100,000 acres. The largest population of any one rural municipality in 1903 was 6,938 (Rhineland), the smallest 295 (Bolton). Twelve municipalities had between 3,000 and 5,000, fifteen between 2,000 and 3,000, forty-one between 1,000 and 2,000 and the remainder less than 1,000.

Co-operation between Province and Municipality.

Though the provincial Government is supreme within its field, each municipality is created a separate corporate entity, having the entire management of its own local affairs. The usual limitations only are made, such as restrictions of the amount of taxes to be levied and a general supervision by the provincial Government. It may be said, however, that the policy of the Government is to interfere as little as possible in municipal affairs, and to leave a very wide discretion to the local officials.

Municipal Commissioner: In its supervising capacity the Government is represented by a municipal commissioner with a staff of municipal inspectors, who check the work of the municipal auditors and report any discrepancies to the commissioner and to the reeve of the municipality within which such are found. If the matter complained of is not corrected within a reasonable time the Lieutenant-Governor in Council has power to take any necessary proceedings against the defaulting persons to safeguard the interests of the municipalities.

Drainage: In a number of other matters there is co-operation between the province and the municipality. For example, under the Drainage Act many thousand acres of land have been reclaimed by a system of drainage carried out by the provincial department of Public Works. When the Government engineers report that a system of drainage is advisable in a certain locality, a drainage district is formed, made up of all the lands which will be so benefited. The cost of the undertaking is borne by the lands within the district. The Government frequently assists in the erection of bridges, a matter under the direction of the municipalities, by contributing one-half the cost of construction.

Board of Health: Another matter in which cordial co-operation is noticeable is with regard to the public health. There is a provincial board of health composed of four doctors and two laymen appointed by the Government. This board has its inspectors in every municipality, and the expenses in connection with its maintenance are made by a direct levy on the municipalities for the amount required in each district. The supervision thus exercised has been found to work well, and the prompt measures taken by the central body upon the information of the local inspectors has prevented any serious epidemic of disease in late years. The municipalities are required by law to provide for free vaccination of the poor, and a contract must be made with a duly qualified medical practitioner for that purpose. Vaccine is furnished free of charge by the board to doctors thus appointed.

Financial guarantees : Finally, the Government protects the people throughout the country by taking bonds guaranteeing the treasurers of all municipalities and school districts ; these bonds are held by the Municipal Commissioner and the Minister of Education respectively in trust for the municipalities and school districts.

Municipal Councils and Elections.

The governing body of a Manitoba municipality is similar in outline to that of an Ontario municipal corporation. A city council consists of a mayor and two aldermen for each ward. A town council is composed of a mayor and two councillors for each ward, and a village council of a mayor and four councillors in all. The council of a rural municipality is made up of a reeve and not less than four nor more than six councillors, the number being fixed by by-law. Elections are held on the third Tuesday in December of each year. In cities and in the town of St. Boniface, which is an historical old town on the eastern side of the Red river, opposite Winnipeg, the aldermen hold office for two years, one alderman for each ward retiring each year. In towns, villages and rural municipalities the term for a councillor is one year. Persons eligible for election as mayor, alderman, reeve, and councillor must be native-born or naturalized subjects of His Majesty, and males of the full age of twenty-one years, able to read and write. In cities, towns, and villages, aldermen and councillors must be possessed of freehold or leasehold property in their own names in the last revised assessment roll of the municipality over and above all charges affecting the same, $500 freehold or $1,000 leasehold, and where the candidate's estate is partly one and partly the other, every two dollars' worth of leasehold property is counted as the equivalent of one dollar's worth of freehold property. In rural municipalities they must reside in the municipality, or if not they must have expressed in writing to the returning officer their willingness to accept office if elected, and must be owners of real estate within the municipality, rated in their own names, of at least $100 over and above all charges.

Certain persons are disqualified from holding any of the above offices, among them being judges, jailors, sheriffs, constables, assessors, collectors, treasurers, and other paid officers; bailiffs of the county court and persons licensed to sell spirituous liquors, or a person whose wife holds a liquor license, inspectors of licenses and persons having contracts with the corporation, or indebted to the municipality for arrears of taxes; any person who is acting surety for an employee of the municipality; anyone who has been convicted in a court of law for an indictable offence punishable by imprisonment for five years. In cities and towns, however, indebtedness for arrears of taxes does not disqualify a mayoralty or aldermanic candidate. Still others, while not disqualified, are exempted from holding office: all persons over sixty years of age, members of the legislature or House of Commons, civil servants, coroners, clergymen, lawyers, officers of the courts, registrars, doctors, professors and school-masters, all school officers and servants, millers, and firemen belonging to any authorized fire company.

The qualifications of municipal voters are sufficiently generous. The electors are made up of (1) persons whether resident or not who are in their own right at the date of the election freeholders in the municipality of the value of at least $100, or leaseholders of the value of $200, (2) residents of the municipality who have resided there for one month prior to the final revision of the list of electors, and at the date of that revision are householders or tenants in the municipality, (3) residents of the municipality at date of the final revision of the electoral list, who are farmers' sons and have resided in the municipality on the farm of their fathers or mothers for twelve months next prior to the return of the assessment roll, provided that the farm is sufficiently valuable to give each son the necessary money qualification.

Money By-laws.

Every by-law for increasing the debt of a municipality not payable within the same year as a rule must first receive the

assent of the electors of the municipality in the manner provided in the Municipal Act, the only exception being debts for work payable entirely by local assessment or for procuring water or drainage facilities. Where the assent of the electors is required there must be a majority of three-fifths of all the qualified electors actually voting. An interesting provision of the Act is that giving the mayor of any city, town or village the right to veto any by-law, resolution or measure adopted by the council authorizing the expenditure of money, at any time within twenty-four hours after the time of the passing of the same by the council, provided, however, that such veto may be removed by a two-thirds vote of the council at any subsequent meeting.

Liquor Licenses.

The granting of liquor licenses has vested since the year 1889 in the hands of provincial Liquor License Commissioners. Three commissioners are appointed for each of the four districts into which the province is for this purpose divided, and have authority to grant licenses in proper cases within their districts. There is an inspector for each district to see that the provisions of the Act are observed and a general inspector over all.

The strenuous efforts made by the temperance party in Manitoba prior to 1900 produced in the first session of the present legislature, 1900, an Act called the Liquor Act (Cap. 22), which was the first serious effort on the part of the legislature to restrain the liquor traffic. After this Act had been declared *intra vires* by the highest court of appeal, the Government submitted the question of prohibition to a referendum. The result was that the Liquor Act was repealed, and the liquor traffic placed under the Liquor License Act of 1902 (Cap. 101, R.S.M. 1902). This Act provides for issuing licenses to hotels and restaurants, but abolishes saloons. It further permits full liquor option in the matter of liquor licenses. Sections 61 to 76 provide that commissioners shall not grant a license within a municipality where a by-law has been passed prohibiting the municipality from receiving any money for such a license.

Such a by-law must have been passed by popular vote after a petition to the council of one-fourth in number of the resident electors whose names appear on the last revised municipal voters' list. The by-law further requires the assent of three-fifths of the total vote. At present numerous districts scattered throughout Manitoba have adopted complete liquor prohibition.[1]

Education.

The question of education has been a very difficult one in Manitoba, owing to the religious questions which since the beginning have entered into it to so large an extent. Feeling ran high in 1890, when the Government of the day abolished all religious instruction in the schools, except as provided in the Act then passed. The Roman Catholics questioned the power of the legislature to pass such an Act, and took the matter before the courts. The Privy Council in England finally held the legislation to be *intra vires*.

Originally education was in the hands of a board appointed by the Lieutenant-Governor in Council, and made up of twelve Protestants and nine Roman Catholics. Under the guidance of this board two sets of schools were maintained throughout the country according to the denomination of the persons in the vicinity, the Protestant members of the Board having control of one set of schools and the Roman Catholics of the other. Under the Public Schools Act as

[1] The licenses provided for by the Act are (*a*) hotel licenses, (*b*) restaurant licenses (in cities), (*c*) wholesale licenses, (*d*) commercial travellers' licenses. For a restaurant license a certificate must be filed with the inspector by sixteen resident householders on the last assessment roll for $25 each, certifying that in their opinion the restaurant is a necessity for the purpose of providing meals for the puplic. The inspector is charged with seeing that meals are duly furnished. A commercial traveller's license empowers the traveller to take orders in Manitoba for liquor, but does not empower him to keep a stock of liquors in Manitoba. Druggists are entitled to keep liquor on their premises. All wholesale druggists may sell alcohol not exceeding ten gallons at one time and other liquors not exceeding five gallons at one time to any properly qualified retail druggist. Otherwise the sale must be for medicinal purposes and in packages of not more than six ounces, except under a doctor's certificate. The provincial license fees vary, but do not in any case exceed $250. A municipality has power to charge an additional license fee. Penalties are provided by the Act for infraction of the law, increasing in severity with each new infraction.

now amended religious instruction may be had if authorized by a majority resolution of the local school trustees, or if a petition for religious teaching is presented to the local school board, signed, in the case of a rural school district, by the parents or guardians of at least ten children attending the school; or, in the case of a city, town or village school, by the parents or guardians of at least twenty-five such children. Religious teaching must take place between half-past three and four o'clock in the afternoon, special provision being made to keep the Catholic and non-Catholic children separate during religious instruction.

Municipalities have power to organize school districts within their limits not to cover a greater area than twenty square miles, exclusive of public roads. The area, however, may be greater if means of transportation is provided for the children who have to travel more than two miles to the nearest school. Each school district is in charge of a board of trustees consisting of three members. In rural school districts one trustee is elected annually by open vote at a public meeting, and holds office for three years. In other than rural districts, the election takes place at the regular municipal elections in the same manner as for aldermen.

The school system has so developed that while in 1884 there were but 326 schools in the province, with 359 teachers and 11,708 pupils (average attendance 6,528), in 1902 there were 1,488 schools, with 1,869 teachers and 54,056 pupils (average attendance 28,306). The total expenditure in the same period grew from $302,273 to the very substantial outlay of $1,455,051.[1]

School Revenue.

Educational revenue is raised from two sources, provincial grant and municipal tax. The Public Schools Act provides that out of the provincial grant of $130 per annum, the sum of $65 shall be paid semi-annually for each teacher in any school district in which the school has been in operation

[1] Combined government grant and municipal levy.

during the whole of the previous term. It stipulates, however, that no school shall be entitled to receive more than one-half the amount required for these current expenses during the term for which the grant is made. It provides, further, that a reduction may be made in any case where the school attendance has been less than forty per cent. of the children enrolled. The clerk of every municipality furnishes the school inspector with a statement of the requisitions of the school trustees of each school district and of the assessment roll. From the provincial grant the premium for the guarantee bond of the treasurer is deducted. Supplementing the legislative grant, the council of each rural municipality must levy a sum equal to twenty dollars per month for which each school has been kept open in each school district in the municipality during the current year. A *pro rata* provision is made in case the school district is partly in one municipality and partly in another. Where more than one teacher is employed, $20 per month is to be paid for each teacher. The trustees may raise loans for current expenses by giving a promissory note at a chartered bank, but the amount of loan is limited to the estimate of expenses for the year.

Administration of Justice.

For the administration of justice locally, the whole province is divided into forty-two county court districts, presided over by six county court judges. These courts are supported by the municipalities lying within the jurisdiction of the courts respectively, the rent of the offices, together with the cost of fuel, light and other expenses, being included in the levy of the municipal commissioner upon the various municipalities, and being paid by him.

The clerks and bailiffs of the county courts are appointed by the Lieutenant-Governor in Council, and are supported by the fees paid into their offices, except in a small number of the more important county courts, where the officials are salaried and the fees returned directly to the Government.

The police magistrates who preside over courts in cities and towns in the province are appointed by the Government, and their salaries are paid by the city or town within their jurisdiction. The maintenance of the superior courts and jails is cast upon the province, but, as the British North America Act provides, the federal Government appoints and remunerates all judges.

Financial Matters.

The chief source of municipal revenue is the tax on realty, which must not exceed ten cents per acre for all land within the municipality which has been alienated from the Crown. The rate, however, is not to exceed two per cent. upon the assessed value of the taxable property, exclusive of school taxes and the levies of the municipal commissioner and the board of health. The other principal sources of revenue are the licenses issued by the municipalities to various persons, chief among which are the liquor licenses, peddlars' and animal licenses, and the tax which is directly made upon the municipality for drainage purposes in the manner above noted. Municipal ownership is not in favour in Manitoba; the town of Neepawa (population 1,900) is the only place where it has been seriously tried. That town owns its electric light works and telephone service, but has not as yet met with much success.

Provision is made by the Municipal Act (sections 442 et seq.) for raising money and issuing debentures. These sections also provide for sinking-funds in case the debt is payable at a certain time in the future. The common practice is, however, for the principal and interest to be payable annually, and in that way the necessity for a sinking-fund is obviated. The current rate of interest for these loans is at present six per cent., though sometimes a smaller rate is obtainable. Not very many years ago the current rate was ten per cent. or even twelve. In cases where a sinking-fund is required, a report upon this fund is included in the annual return to the Government, and in that way a check is kept upon the

municipalities. The average debenture debt of the rural municipalities which have such debts is about $5,000; but, according to the latest returns, there are thirty-seven municipalities which have no debenture debt at all.

The rural municipality with the greatest assessment is Portage la Prairie, with $2,514,062. Fifteen other rural municipalities are assessed for more than one million dollars. The assessment of the city of Winnipeg amounts to $48,000,000, that of Brandon is $2,148,894, that of the town of Portage la Prairie $2,081,171.[1]

As indicating the expansion of Manitoba, the growth of the capital, Winnipeg, may be noticed. Winnipeg's population at the date of its incorporation (1873) was 1,200; it is now approximately 68,000. The Winnipeg Electric Street Railway Company was incorporated in 1890; prior to this the Winnipeg Street Railway Company had in operation about ten miles of horse-car lines; in May, 1904, there were twenty-six miles of track laid in the city and suburbs, and an excellent electric service is maintained.[2] In 1880 no streets at all were paved; in 1903 there were ten miles of asphalt, twenty-seven miles of macadam and sixteen miles of cedar-block pavements. The city is lighted by electric light, supplied by the Street Railway Company, which derives its motive power from the Assiniboine river.

The system of local self-government as here outlined has proved to be fairly efficient. It is regrettable, however, that in Manitoba, as frequently elsewhere, it is difficult to get capable business men to accept municipal office. It is only an occasional municipal election which creates more than a slight degree of interest among the electorate. This is very

[1] It is a matter of regret that the work of collating municipal statistics is very inadequately done. For its municipal returns the provincial Government relies to a great extent on the inspectors who examine the books of the municipalities, and frequently the returns are not made, or if made, they are not as full or accurate as they should be.

[2] The ordinary car-fare is five cents, or six regular tickets, eight workingmen's tickets for twenty-five cents, as in Toronto, Ottawa, and elsewhere. Schoolchildren's tickets are sold at ten for twenty-five cents. The cars run till midnight, but after eleven o'clock double fare is charged. Transfers are given from any line to any connecting line.

apparent when money by-laws are submitted to the people. Almost invariably the percentage of the electors who at such times cast their votes is extremely small. As this fact suggests, party politics do not enter appreciably into municipal legislation or elections.

MUNICIPAL GOVERNMENT IN THE NORTH-WEST TERRITORIES

BY

S. MORLEY WICKETT, PH. D.,

LECTURER IN POLITICAL ECONOMY IN THE UNIVERSITY OF TORONTO

MUNICIPAL GOVERNMENT IN THE NORTH-WEST TERRITORIES.

The increasing population in the North-west is in evidence in the growing number of districts, villages and incorporated municipalities with their paraphernalia of ratepayers, overseers and councils, assessments, taxes and sinking funds. How this "Great Lone Land" is thus being organized so as to allow the increasing number of settlers to take charge of their own local affairs is an unfinished story. Its municipal history has really only begun. But, incomplete as is the story, it is typical of modern Anglo-Saxon administration; the distinction of which is that it brings self-government to every door, assuming that every inhabitant is also a citizen. The account is also suggestive of the course that local organization and development take in the new parts of the New World.

Prior to 1870, all that region of British North America that poured its waters into Hudson Bay or the straits leading thereto was known as Rupert's Land. The Hudson's Bay Company, under its charter of incorporation granted by Charles II. in 1670, claimed absolute proprietorship, subordinate sovereignty and exclusive traffic of Rupert's Land. The remaining part of British territory lying west of Rupert's Land to the borders of British Columbia and northwards, which was drained into the Arctic Ocean, was known as the North-Western Territory. The claims of the Hudson's Bay Company having been settled, Rupert's Land and the North-Western Territory were admitted to and became part of the Dominion of Canada on July the 15th, 1870, and were named the North-west Territories. In 1870, out of a part of the North-west Territories lying east of the meridian of 99 west longitude, there was formed the province of Manitoba, and in 1881 the boundary of the province was moved westward to its present position. The total area of Manitoba is 73,956 square miles, but this represents scarcely one-three-hundredth

of the total area of the North-west. The remainder is considerably larger than half of Europe.[1]

In 1876 [2] the great district of Keewatin, with a land area of 498,000 square miles, was formed out of the eastern part of the territories, the duty of administering its government being placed upon the Lieutenant-Governor of Manitoba. In 1882 by Order in Council the four provisional districts, Alberta, Assiniboia, Saskatchewan and Athabasca, were created out of the southern part for postal purposes, in accordance with a resolution of the House of Commons.[3]

By proclamation of the 2nd of October, 1895, the rest of the great western and northern country was divided, also for postal purposes, into other four districts : Mackenzie, Yukon, Franklin and Ungava. In 1898 the Yukon Territory Act separated the Yukon from the North-west Territories, gave it a constitution of its own, and placed it under a commissioner and a council, the council being now partly appointed by the Dominion Government and partly elected by popular vote. All these districts are very large. Bigness is characteristic of the west in many things, even in some of its municipal units. Alberta has a land area of 99,255 square miles, Assiniboia of 89,340, Saskatchewan of 108,000, Athabasca of 239,500. The land area of Yukon is 196,300 square miles, of Mackenzie 481,200, of Ungava 276,000.

The three provisional districts, Alberta, Assiniboia and Saskatchewan, the districts which are now being most quickly settled, are said unofficially to be "organized." The fourth provisional district of Athabasca, like Mackenzie, Ungava, and

[1] The boundaries of Rupert's Land and of the North-Western Territory were long matters of dispute. The Episcopal Missionary Diocese of Rupert's Land, created by English authority, embraced what is now Ungava, and that part of Quebec north of the height of land, passing south of Lake Abitibi, all that territory added to Ontario by the boundary award, together with Manitoba, Assiniboia, Saskatchewan, and the southern two-thirds of Alberta, the south-east corner of Athabasca, and nearly the whole of Keewatin. The height of land which marks the boundary can be traced on any good map of the Dominion. Some years ago Ungava appeared on the map as the North-East Territory, but by what authority is not known.

[2] 39 Vic. Chap. 21, Rev. Stat. Canada, Chap. 63.

[3] Can. Com. Journal, 1882, 509 ; Can. Gazette, Dec. 1882.

Franklin, is said to be "unorganized," through not being represented in the territorial assembly. The North-west Ordinances are in force, however, in organized as well as in unorganized districts, though generally speaking in the latter they are a dead letter. There is one important exception: the prohibitory liquor clauses of the North-west Territories Act, to which I shall refer later, have been repealed as far as the three "organized" districts are concerned.

By the original Act of 1869, the Governor-General in Council was given power to appoint a Lieutenant-Governor who should make provision for the administration of justice in the territories, always acting, however, as the agent of the federal Government. The Governor in Council was also to appoint a council consisting of from seven to fifteen members, to advise the Lieutenant-Governor.

The first local divisions or townships were made by the federal authorities under the Dominion Lands Act of 1872.[1] As in eastern Canada after the conquest, these townships were not for government but for purposes of survey and settlement. Following western United States' practice, they were laid out, 36 miles square, and then subdivided into numbered sections of 640 acres each. Numbers 11 and 29 of every surveyed township were set apart for purposes of educational endowment. Town or village sites were provided for by the Sercetary of State being empowered to reserve any suitable tract or tracts of land for such purpose. It is rather curious that the township section has become the unit of measurement for an individual farm, the size of a farm being usually given in sections and fractions of a section.

The Dominion Government has paramount power over all the territories according to section 146 of the British North America Act and the 1871 amendment. But its policy has been to leave local matters to the care of the territorial Lieutenant-Governor in Council, and later to his care and that of an

[1] Unofficial organizations had doubtless been in existence already, following out traditional Saxon methods. Thus in 1871 the settlers of the Saskatchawan valley formed the Saskatchewan District Board of Health to check the spread of smallpox then epidemic.

elected assembly. On April the 21st, 1871, the North-west Territories Act was passed. The first North-west Council was gazetted in January, 1873. Down to 1876 the Lieutenant-Governor of Manitoba was *ex officio* the Lieutenant-Governor of the territories, aided by a council of eleven. On the 7th of October, 1876, the first resident governor of the North-west territories was appointed (the Honourable David Laird) together with a council of five members, two being stipendiary magistrates.[1] This one territorial authority took charge of all territorial matters, municipal and other, much as does the provincial assembly in Prince Edward Island to-day. The appointment of sheriffs, justices of the peace, and stipendiary magistrates was provided for by the Act of 1875. The number of councillors, some of whom were first elected by popular vote in 1881, was to increase with the growth in population.[2] When the number reached 21 the council was to determine and be transformed into a territorial assembly. This occurred in 1888. For the assembly an electoral division was characteristically large; whenever an area of not more than 1,000 square miles had 1,000 inhabitants, exclusive of Indians and aliens, it might be made an electoral district with one representative. With a population of 2,000, it elected two members.

When the council became the assembly in 1888, four of the members were chosen by the Lieutenant-Governor to form a financial advisory committee, a kind of cabinet. Three legal experts—the judges of the territorial Supreme Court—sat in the House and took part in the debates when necessary, but did not vote, the aim being to prevent conflict with Dominion legislation. It is interesting to note that a tempest in a teapot arose in 1889 in a dispute between the finance committee and the Lieutenant-Governor, to whom the chief control of the finances fell, which assumed the character of a struggle for responsible government. The committee won. The adminis-

[1] Dom. Act, 1875, 38 Vic. Chap. 49. It was in 1873 (36Vic. Chap. 4) that the Department of the Interior was established at Ottawa to take charge of the North-west territories, of Crown lands and of Indian affairs.

[2] Dom. Act. 1880, Chap. 25.

trative jurisdiction over the territories is thus in the hands of the Lieutenant-Governor in Council; the legislative is vested in the Lieutenant-Governor and the representatives of the three provisional districts already named.

During these early years Ordinances of a municipal nature were passed from time to time regarding the administration of justice, statute labour, fences, gambling, contagious diseases, liquor sales to Indians, prairie fires, fire districts, schools. The first comprehensive Ordinance respecting municipalities was passed in 1883. It and other municipal Ordinances were revised and consolidated in 1888 as "The Municipal Ordinance," again in 1894, and a third time in 1897. The Ordinance of 1894 provided for the incorporation of three classes of municipalities : (1) rural municipalities, (2) cities, (3) towns. The revised Ordinance of three years later omits any reference to cities, leaving them to special legislation.

Fire and Statute Labour Districts (unincorporated).

The early municipal bodies appear to have been very simple and business-like in their structure. They were offsprings of local conditions, not copies from eastern Canada or other countries. Fire and statute labour districts are examples. According to the Ordinance of 1886 respecting fire districts, the majority of residents of three months' standing in a locality may petition to be formed into a fire district under fire guardians or a fire guardian. The district must not be less than one township or larger than four townships (36 and 144 square miles respectively), and not overlap any other municipality. The Lieutenant-Governor in Council appointed the guardian, and each resident had to pay a rate of $4 a year, which he might commute by labour. Somewhat similar measures with regard to statute labour districts were provided for in 1887; though here the road overseer was elected. The overseer assessed each farmer according to the size of his farm : two days' labour for 160 acres (¼ section) or less, three for a farm of 160 to 320 acres, four for the next 320, and five for 1,280 acres and over, and one day extra for every 640 acres. The fire and

statute labour districts were combined in 1898, and provision was made for levying rates in place of statute labour, paying the overseer and collecting fines by process of law. It is clear from the 1899 amendments to the local improvement Ordinance that there is a strong desire to do away with all commutation. A petition of two-thirds of the ratepayers of any district is sufficient to secure its abolition. In large local improvement districts, which will be described directly, statute labour is (since 1899) excluded altogether. A growing movement in the same direction has been noticeable in many parts of eastern Canada for a number of years.

Local Improvement Districts (*unincorporated*).

The earlier municipal organisms have given place now to more developed types, the local improvement districts, which were provided for in 1898 by an Ordinance, revised in 1903, and taking effect on January the 1st, 1904. The tendency towards uniform municipal units is seen here, as also in the omission from the revised Ordinance of 1903 of any reference to hamlets. Hamlets, by the Ordinance of 1898, were little localities not over half a square mile in area, and containing at least ten dwellings, organized for the purpose of checking fires and the spread of contagious diseases. Though unincorporated, local improvement districts suggest a loose comparison with the county of the western States and eastern Canada. There must be a resident population in the proportion of one inhabitant to every three square miles. The territorial Commissioner of Public Works supervises in a general way the business of the district; appoints an auditor, and receives his annual returns, on prescribed forms, of assessment, taxes and work done. The actual business of the district, however, is in charge of an elected council composed of not more than six and not less than three members, who have the right to contract for purposes of the Ordinance and to sue in the name of the district.

For election purposes each district is divided by the Lieutenant-Governor into three divisions, all the owners and

occupants of rateable land having the right to vote. The council may pay its members' travelling expenses of 10 cents a mile and $2 a day for attendance at council meetings up to six meetings a year. An assessment of the district is provided for and a personal tax of not less than 1¼ cents or more than 5 cents per acre levied on every owner or occupant. A special clause safeguards a minimum expenditure for each district.

Sections 70-81 of the Ordinance provide for the erection of "Large Local Improvement Districts," with a lower limit to the tax rate, and without the right to sue, any legal dispute being taken charge of by the Commissioner. Both the ordinary and large local improvement districts can only embrace territory not already included in a municipality, district or village.

Villages (unincorporated).

The improvement districts have to do with the very sparsely settled parts. For places corresponding to police or incorporated villages in Ontario, the Village Ordinance of 1900 applies. In 1895 a village (formerly called "town," as in various parts of the United States,) was officially described as "any portion of land not being within a municipality and not exceeding 320 acres on which not less than ten dwelling houses have been erected for residence." A village may now be four times as large as this and must have at least fifteen dwellings. The annual meeting of the village residents to elect the overseer is reminiscent of the old English town meeting. The overseer holds office for two years and may be paid a salary of $50 yearly, together with 2½ per cent. of all moneys that he collects. He must not incur debts for the town of over $100, and must render a yearly account of his stewardship to the Commissioner of Public Works. The village may sue or be sued through the overseer, but the village not being incorporated, village property is held in trust by the Commissioner of Public Works.

Incorporated Rural Municipalities and Towns.

The General Municipal Ordinance of 1897 applies, we have seen, to incorporated municipal bodies other than cities, that is, to rural municipalities and towns. Cities are subject to special legislation, and fall under the general Municipal Ordinance only in so far as it is expressly so provided in the Acts of incorporation. The Ordinance is obviously modelled on the general Municipal Act of Ontario, the most mature general Municipal Act in Canada, though it is by no means an exact copy. An incorporated town must have a population of over 400 within an area of 1,280 acres (two sections); an incorporated rural municipality has a more scattered population and usually a larger area. A town council consists of a mayor elected each year and six councillors elected every second year, half retiring annually. A council of a rural municipality is made up of a reeve and four councillors, similarly elected. Every nomination for office must be accompanied by the written consent of the nominee who must be a resident freeholder or leaseholder. In a town, his freehold must be of the value of $500 over and above all encumbrances or $1,500 leasehold. In a rural municipality he must have a freehold of $400 value. Elections are by ballot and are held on the first Monday in December.

As in eastern Canada, every municipality is held responsible for the good repair of its local works, such as sidewalks, sewers, culverts, etc. The municipal responsibilities and powers, which are enumerated, recall Ontario municipal legislation. But here and there one is struck by the more generous measure of municipal home rule given to the western municipality, for example, in connection with tax exemptions, granting of bonuses and municipal ownership. It is too soon to say whether this means that the western municipality is being fortunate enough to gain a more definite status recognized and respected by the territorial legislature than is possessed by municipalities in eastern Canada. Probably no such inference can be drawn as yet. In 1899 the National Municipal League of the United States adopted the recommenda-

tion that local bodies be given wider discretionary powers, which of course means a departure from the traditional rules of the law of public corporations. The same recommendation might be made in Canada as well. On the other hand the conservative and educative influence of the legislature or municipal council is very valuable, particularly in new sections, and is at times greatly underrated.

Assessment.

The assessment in towns is made yearly. Rural municipalities have the option of making an assessment every three years. The municipal revenues are drawn from taxes on both real and personal property, personal property being exempt up to $1,000. Certain unpleasantnesses met with in some of the older provinces are avoided by limiting the exemption of church lands to one half acre. The mayor and council are themselves the municipal court of revision (with right of appeal to a judge). The levying of a single tax is provided for "on the actual value of all land without improvements . . . but in no case shall the rate imposed exceed four cents on the dollar . . . including general, school and debenture rates." The adoption of this measure requires a two-thirds majority of the council. Under the customary system of taxing real and personal property the tax rate is limited to 2½ cents on the dollar. There is a poll tax of $2 on male adults, not on the assessment roll, residing in a town or within two miles of it, and having employment or a place of business in the town. Under certain circumstances, employers are to pay the income and poll tax of employees and deduct the same from their wages. By petition of three-fourths of its voters, a village like a town may adopt the single tax system of assessment with a maximum rate of 2 cents on the dollar. A rebate of taxes is allowed in consideration of the planting of trees in the village. Men eighteen years or over, not otherwise assessed, pay a village poll tax of $1. School rates, as in eastern Canada, are uncontrolled by the municipal council; but according to the School Assess-

ment Ordinance, of 1901, the school rate must not exceed 12 mills on the dollar of property subject to such rates, the minimum rate, however, being $2 yearly.

There is some novel legislation regarding sales of lands for arrears of taxes which appears to have proved an effective tax gatherer. The history of the present Ordinance, as applied to towns and cities, runs back through various amendments, made in 1894, 1891, 1888 to 1884. If in a town or a city no bidder appears for the full amount of the arrears and charges, the treasurer shall there and then sell the land to the municipality at the up-set price. This power of purchase was in 1891 only permissible, now it is compulsory. In local improvement districts very largely, and with some modifications in rural school districts, the territorial government takes over the land having two years arrears of taxes, and itself pays the arrears and all future taxes until the land is sold. This procedure was first tried in the local improvement districts where it proved a grateful financial relief to rural districts. In these rural municipalities the secretary makes a return of the tax arrears each year to the territorial commissioner, and gives a 60-day notice to each owner of land on which the arrears lie of his intention to apply to a judge for confirmation of the return. Upon confirmation, the land vests at once in the Crown, without the possibility of any question of title.

Municipal debts are limited to 10 per cent. of the assessable property and must be repaid within 20 years, or 40 years in case of a stock subscription to a railway. By the Ordinance of 1903 every municipal auditor must transmit a copy of his report to the territorial treasurer. Thus is laid the basis for a useful summary of municipal statistics, of which full advantage should be taken. At present there are three municipalities incorporated as "cities" (Calgary, with a population of 7,500, Regina, with a population of 6,000, and Moose Jaw, with a population of 2,800), twenty-four incorporated towns and sixty incorporated villages. The charter of a fourth city, Edmonton, is now being drafted. The cities and a

number of towns own their own water-works, and Edmonton is lighted by electricity from its own plant. A private company furnishes electric lighting to Calgary. A street railway company for Edmonton is chartered, and is to build 12 miles of line by 1905.[1] Telephone service in Edmonton is in the hands of a private company which has upwards of 300 telephones in use.

Liquor licenses, as in most Canadian provinces, are in the hands of three liquor license commissioners, appointed by the Lieutenant-Governor in Council. In 1875 the manufacture of intoxicating liquors in the territories was entirely prohibited as a protection to the Indians, except by special permission of the Governor-General in Council, as also the importation, except by the written permission of the Lieutenant-Governor.[2] The prohibitory clauses were subsequently repealed by the assembly in so far as the three "organized" districts are concerned. In 1891 the license commissioners were appointed, special provision being made regarding sales of intoxicating liquors to the Indians. The Dominion Government polices the territories with the well-known, well-organized Mounted Police, formed in 1873, and since then greatly strengthened.

Education is not forgotten; indeed generous provision is made for it. Any locality up to five miles in length and breadth may be made a school district if it has a resident population liable to assessment of four persons and twelve children between the ages of five and sixteen inclusive. Should it coincide with a municipal unit it is called a town, village or rural school district as the case may be. The territorial Govern-

[1] The original charter is contained in Dom. Act 57 and 58 Vic. (1894) c. 71, and was procured by their council in trust for the municipality. It has now been disposed of under an agreement to a company. As there are no municipalities organized outside of the town it has been alleged that the effect is to give the company running rights in perpetuity over every road lying outside the municipal boundaries, as these may be at the termination of the charter period of thirty years.

[2] Dom. Act, 1873, Ch. 39, in force May 23, 1875. This Act but followed the policy of an agreement to the same effect between the Hudson's Bay and the Russian Trading Companies many years before. By its various Indian treaties from 1871 on, the Dominion Government continued the protection. See Begg's *History of the North West Territories*.

ment supplements the municipal school rates by grants fixed according to acreage in the school district, attendance of scholars, qualification of teachers, time during which school is kept and condition of grounds, buildings and equipment, and general progress, an admirable plan to secure the highest possible local efficiency. Locally the schools are in charge of boards of school trustees, elected at the same time as the council. In rural and village districts there are three trustees with a three-year term of office; in towns five trustees with a two-year term.[1]

The three existing cities are incorporated by special Acts.[2] It would seem preferable for the territorial Government to provide for all present and future cities by a single uniform Act. A general municipal Act always helps to keep alive widespread interest in municipal legislation, and safeguards the assembly against log-rolling between the municipalities. Before very long, without doubt, there will be a call for a general consolidation of the municipal Ordinances, perhaps on the occasion of the territories being created a province. Such a consolidation would embrace at least the Ordinances relating to local improvement districts, villages and cities, together with the general Municipal Ordinance.[3]

One may wonder what will be the influence of the large

[1] See the School Ordinance ; the School Assessment Ordinance ; and the School Grants Ordinance, all of 1901, and amendments.

[2] I am informed that the draft charter for Edmonton contains some new features suggested by the municipal experience of eastern Canadian cities, for example, a less specific grant of municipal powers by the legislature, plural voting on income, etc.

[3] The following figures will give some idea of the financial situation of the three cities.

Dec. 31, 1903.	Regina.	Moose Jaw.	Calgary.
Assets.....	$127,141	$20,242	$304,664
Liabilities :			
Debentures.....	87,500	8,667	188,900
Other.....	16,997	....	103,390
Taxes.....	25,120	16,470	60,282
Tax arrears paid..	1,066	....	4,619
Licenses.....	1,964	2,264	6,047

The difficulty one meets with in attempting to give a financial survey suggests that already in the west—as in the east—there is need for a uniform system of municipal bookkeeping.

number of new settlers, many of whom have little or no knowledge of English speech, or of English traditions of government. From the history of local government in the United States, we may conclude that the influence will not be so much on municipal organization as on municipal administration. Therein lies a fresh problem.

These are some of the conditions of municipal organization in the "North-West." There is an inspiration in considering them, for they mean that a system of self-government is being adapted year by year to the requirements of a region of great area and of great political and economic possibilities.[1]

[1] In Alberta, Assiniboia and Saskatchewan in 1871 the Indian and half-breed population was 18,000. The census of 1901 returns 132,636 whites, 11,635 half-breeds, besides 14,669 Indians. The number of whites will probably now reach 200,000. In the above sketch I have not mentioned irrigation districts under territorial commissioners, territorial aid to hospitals etc., though they, too, play a part in the broad system of local government. For poor rates there is, as yet, happily no occasion.

MUNICIPAL INSTITUTIONS IN THE PROVINCE OF QUEBEC

BY

R. STANLEY WEIR, D.C.L.

MUNICIPAL INSTITUTIONS IN THE PROVINCE OF QUEBEC.

A survey of the municipal institutions of Quebec as a chapter in the government of the province leads us back but a few decades, certainly not to the period of *la domination française*. A decentralized administration would have been wholly incompatible with the autocratic sway of a Colbert or a Richelieu; to-day Quebec's local institutions are essentially democratic, resting upon the basis of popular representation and election. Unused to participate in their local affairs under the French régime the inhabitants were not prepared to undertake their own local government until well into last century, approximately 1840. Modern municipal government in Quebec thus dates back only a little over sixty years. But municipal history is to be considered also from the standpoint of practical administration. And, while in administrative machinery modern communities are much alike, old customs and methods are tenacious of life. In the present case it need not surprise us if many interesting features of the *ancien régime* are still discernible, well worth the attention of the student of local administration, not only from a comparative point of view, but also for an adequate understanding of the institutions existing to-day.

In considering the history of New France one is impressed by the vastness of the territory. In the midst of a country so immense it has occasioned surprise that the early pioneers selected sites so perfect for future cities and towns as those of Quebec and Montreal, Three Rivers, Tadoussac and Sorel. Champlain, we are told, founded Quebec (1608) and Maisonneuve Ville Marie or Montreal (1642), and their prescience not less than their heroism has been the frequent subject of eulogium. The truth is that these intrepid *fondateurs* merely adopted the choice of sites previously made by the Indian tribes. Quebec, for instance, was founded upon the site of Stadacona, Montreal upon that of Hochelaga; and although we are told in the narratives of the time that no trace of the old Indian settlements remained, the very statement implies knowledge of the fact of their previous existence. Besides this,

the confluence of the St. Lawrence with its tributaries the Saguenay, the St. Maurice, and the Richelieu suggested appropriate sites for Tadoussac, Three Rivers, and Sorel; and the Lachine rapids, which made Ville Marie the head of ocean navigation, formed a natural resting-place and barter-ground. At all these and similar sites Indian settlements more or less permanent had doubtless existed from time immemorial. The utility of the great river St. Lawrence as a means of communication led for many years to the location of dwellings almost exclusively along the shore; the story of the inland settlements belongs to a later time and relates chiefly to the immigration of the Loyalists from the United States after the Revolutionary war. Talon the intendant (1665–1672)[1] indeed established inland villages, Bourg Royal, Bourg La Reine and Bourg Talon near Quebec, but they did not prosper; the settlers preferred a frontage on the river. Accordingly we have the characteristically deep and narrow farms which are so marked a feature of the Laurentian settlements in French Canada.[2] The efforts of Talon were more successful in persuading the officers of the famous Carignan-Salières regiment[3] upon its disbandment after a successful Indian campaign to accept generous grants of land on the river Richelieu, as also on the St. Lawrence between Three Rivers and Montreal. The towns and villages that have since grown on the shores of the Richelieu—Sorel, Saint Ours,

[1] The Intendant in New France was a kind of business manager for the King, a combined Minister of Finance, Justice and Police, the most important man in the colony, next to the governor, upon whom, to tell the truth, he was a spy, or at least a check. The governor, with his big titles, was military commander and representative of the King.

[2] Parkman, in *The Old Régime* (p. 234), mentions that the line of dwellings along the shore was called a *côte* ; "a use of the word," he says, "peculiar to Canada, where it still prevails." But I cannot find that the word *côte* has ever been applied to river settlements in the province. The word is very common in the vicinity of Montreal even to this day. Côte St. Paul, Côte des Neige, Côte St. Antoine (now Westmount), Côte St. Louis and Petite Côte are well known suburbs. The characteristic feature of these côtes is not their proximity to or alignment along the river front ; on the contrary they are all at some considerable distance from the river. Their characteristic feature seems to be their situation on some prominent slope or undulation of land affording a natural drainage and good soil. Near Quebec where côtes also abound the same restricted use of the word to the slopes of Cape Diamond as to the slopes of Mount Royal near Montreal, is to be observed.

[3] This was the first body of regular troops in Canada. It had gained renown in the Turkish wars and was brought to this country by De Tracy.

Chambly and others; and those on the St. Lawrence—Verchères, Varennes, Contrecoeur, etc., bear the names of old soldiers of France who combined the arts of war and peace in cultivating the soil and protecting their settlements from Indian ravages.[1] The truth compels us to add, however, that these landed proprietors were for the most part much averse to staining their martial hands with labour, and their impecuniosity led to bush-ranging and the illegal pursuits of the *coureurs des bois*.

As regards the land, two distinct kinds of tenure can be traced in the province of Quebec: the feudal tenure of the old *régime* established by Richelieu in 1627 as an aid to settlement and to local administration; and tenure by free and common socage of later times. The lands held under feudal, or more properly seigneurial tenure, comprised almost all the lands on the borders of the St. Lawrence, Richelieu, Yamaska and Chaudière rivers.[2] The seigneur received his holding from the King of France, and sub-granted land to the cultivator or *censitaire* on condition of annual payments in money or produce. Other obligations were also attached such as bringing his corn to the seigneur's mill to be ground, his bread to be baked in the seigneur's oven and giving the seigneur a tithe of the fish caught in the rivers and streams. The seigneurial system was abolished by statute in 1854 and a system of commutations established.[3]

Municipal institutions imply a more or less stationary population and fixed settlement. The available statistics show that under the old régime the population long remained scant, while the settlements were scattered along the shores of the St. Lawrence and Richelieu rivers. A census of 1667 gives to Quebec only 448 souls; though Côte de Beaupré, Beauport, the Island

[1] *Edits et Ordonnances*, ii, 32.

[2] Bouchette, *British North America*, i, 182.

[3] It is not widely known that the seigneurial system was not abolished in the State of New York until 1846. See Mr. Godkin's article in *Handbook of Home Rule*. On the seigneurial system in Canada see Parkman's *Old Régime*, especially ch. xv., and article by Sulte and Desjardins in *Canada, an Ency. of the Country*, vol. iii., pp. 119 and 124.

of Orleans, and other settlements included under the administration of Quebec gave 2,000 more. On the south shore was a small settlement, Côte de Lauzon, with a population of 113. Three Rivers and its dependencies numbered 666, and Montreal 766. Fifty years later the total population was less than 25,000. At the cession (1763) it was only 80,000.

The absolutism and centralization of the French administration was everywhere apparently well-nigh complete. The intendant took charge of general as well as local matters. He was "to order everything as he shall see just and proper." His ordinances were usually read to the people at the doors of churches or sometimes by the curé from his pulpit. All kinds of local ordinances have been preserved, from those relating to chimney-sweeping to directions as to the stock the *censitaires* shall breed.

In his *Frontenac and New France* Parkman details the efforts of that energetic governor Frontenac to establish popular municipal government in the city of Quebec by calling the inhabitants together to elect a mayor and aldermen. The credit of this attempt seems rather due, however, to one of Frontenac's predecessors, the Chevalier de Mezy, who occupied the gubernatorial chair for a few months in the year 1663. Colbert's famous rebuke to Frontenac, which Parkman quotes,[1] was occasioned by the latter's attempt to organize the inhabitants into the three orders of the clergy, the nobility and the people, not by any attempt at municipal organization. But the Arrêt of the Sovereign Council ordered the

[1] It ran as follows : "The assembling and division that you have made of all the inhabitants of the country into three orders or estates with the object of administering to them the oath of allegiance might have some effect for the moment ; but it is well to consider that you should always observe in the administration of public affairs those forms which are followed here, and that our kings have deemed it inexpedient for a long time past to assemble the States-General of their kingdom, with the view perhaps of destroying the ancient system. Under these circumstances you should very rarely, and in fact it would be better if you should never give this form to the people of the country. It will be advisable, even after a while, when the colony is more vigorous than at present, to suppress by degrees the syndic who presents petitions in the name of the inhabitants, as it seems better that everyone should speak for himself, and no one for all."—Parkman, p. 20. See also Doutre et Lareau, *Histoire du Droit Canadien*, pp. 169, 170 ; Chauveau, *Notice sur la publication des Régistres du Conseil souverain*, etc., p. 34.

calling of a general meeting of the inhabitants of Quebec to proceed in the presence of the Council to elect a mayor and two aldermen who should have charge of the public affairs of the city, the meeting to be held on the 30th of September, 1663. The Arrêt bears the signatures of Mezy, Bishop Laval, and Caudais Dupont, councillor. The meeting was duly held on the 7th of October, and Jean Baptiste de Gardeur, écuyer, Sieur de Repentigny, was elected mayor, and Jean Madry and Claude Charron aldermen. They were duly received and acknowledged by the Council, and on the 10th of October took oath for the faithful performance of their duties. The minutes of the 7th and 10th of October also bear the signatures of Mezy and Laval, and of Rouer de Villeray, councillor. Frontenac did not become governor until 1672, nine years afterward, so that in giving Frontenac this credit Parkman has obviously fallen into error.

Parishes the Unit of Organization.

It was not until 1722 that the settlement of the colony as a whole seemed to warrant any attempt to divide it into parishes; in the preceding year the intendant Michel Begon, with the assistance of the governor and bishop, had drawn up a schedule of parishes which was sanctioned and adopted by the Council of State in France on the 3rd of March. This edict divided the colony into what was called the government of Quebec, with forty-one parishes, the government of Three Rivers, with thirteen parishes, the government of Montreal, with twenty-eight parishes. These parishes, however, were primarily for ecclesiastical purposes. Many of them had been for some time in existence, but now received their first recognition by civil authority.[1] Their beginning may be traced to the *habitations* or settlements of the colonists of those communities of which the seigneur was the social head, administering justice among his *censitaires*, receiving their fealty and homage, mutation-fines, and *rentes*, and representing them before the Government. The parishes received

[1] Edits et Ordonnances, I. p. 443.

no other recognition by civil authority until 1831, when a commission was appointed by the legislative assembly to establish their limits for civil purposes. The Consolidated Statutes of Lower Canada embody still later legislation,[1] the ecclesiastical forming in most instances the actual boundaries of the civil parish.

The Intendant.

The intendant, as the head of the civil adminstration throughout the colony, a kind of combined Minister of Finance, Justice and Police, comprised in his own person all that is now entrusted to mayor, aldermen and common council. His ordinances related to a great variety of things. They forbade the inhabitants to place traps on their lands, or gallop their horses and carriages on leaving church; ordered them to erect fences and not allow pigs to wander through the streets; fixed the order of precedence in church to be that laid down by the Sovereign Council, and authorized missionaries to receive and execute wills. They included police regulations regarding streets and buildings, weights and measures, the value of coins, the observance of Sunday, the preservation of timber, seigneurial rights, the settlement of boundaries, etc. The intendant presided at meetings of merchants and traders for the election of a syndic (a kind of popular delegate to the Government); issued instructions for road construction or repair; required the habitants to exhibit their titles upon occasion and determine the limits of private lands; forbade those who dwelt on farms to visit the cities or towns without special permission, and punished all violations of his ordinances. De Tocqueville says that the Canadian intendant had much greater power than the French intendant. As to the power of the latter we have the testimony of the great financier, Law, that all France was really governed by its thirty intendants. "You have neither Parliament, nor estates, nor governors," he declared to the Marquis d'Argenson, "nothing but thirty Masters of

[1] 9 Geo. IV., cap. 73, preamble.

Requests, on whom, as far as the provinces are concerned, welfare or misery, plenty or want, entirely depend.''

Syndics d'habitation.

There were in France a familiar class of officials called *syndics d'habitation* who represented popular rights before the administrative tribunals. In rural Quebec the seigneur made this office superfluous. But there are records of meetings of the inhabitants of Quebec, Montreal and Three Rivers, at different intervals, for the election of syndics. Such democratic aspirations, however, found no favour in the eyes of authority, as we have seen in Colbert's message to Frontenac. The office of syndic thus fell gradually into disuse, and by 1661 practically ceased to exist. In 1663, for example, a mayor and two aldermen were elected in Quebec by a meeting of the citizens called by the Sovereign Council.[1] But they resigned in consequence of official pressure, and suggested that because of the small population a syndic would be better; official disagreements, however, prevented the election of the official. The few vain attempts to preserve the office are chronicled by Messrs. Doutre and Lareau, in their *Histoire du Droit Canadien*, where the learned authors remark, in closing their narrative: ''Thus was strangled the only popular constitution that was ever given to the colony under the old régime. It suffered the fate of every popular movement which at that epoch succumbed to the system of centralization adopted by the mother country. Implacable war was waged against every principle of liberty.''[2]

The Grand Voyer.

The *Grand Voyer* or road surveyor, though not a judicial appointment, was an official of considerable administrative importance. He supervised the roads and bridges, the line of streets, dangerous buildings and like matter. The office was created before French royal government was established, that is, before 1663, and existed down to 1840. In 1706 the

[1] The Sovereign Council was established in April 1663, and this was one of its first decisions.

[2] Vol. 1, p. 222.

Sovereign Council collected and promulgated a number of police regulations of which the eighth refers to the office of the *grand voyer*. It runs as follows:

"VIII. The Sieur de Bécancourt, *grand voyer*, is hereby required to visit all the seigneuries where main roads have not yet been established ; to establish such in concert with the proprietors of the seigneuries, or in their absence with the captains of the militia, unless there be a judge present, and to decide, in accordance with the opinion of six of the oldest and most important residents of the place, where the roads shall henceforward run ; and such roads shall be at least twenty-four feet wide. The council commands the inhabitants of each such place, each for himself, to make the said roads serviceable and to give days of labour (*journées de corvée*) for this purpose wherever necessary ; to make bridges over brooks ; to fill in ditches where there are any, in accordance with the direction of the *grand voyer*, conjointly with the seigneur, judge, officers of militia, and the said six inhabitants. We enjoin the said officers of militia to oversee the construction of the said roads and bridges, and to command the inhabitants to that end ; also to make report to this council, in the month of October following as to the condition of said roads ; and in case of any dispute the council reserves to itself the right of inquiry, but forbids all persons to block up the said roads with fences or barriers under any pretence whatever, under pain of a fine of twenty livres, to be devoted to the *fabrique* of the parish of the seigneury, which fine the church-warden shall be bound to exact under pain of being himself personally liable therefor."

Under the French régime the *grand voyer* was subject to the control of the intendant. When he failed to get the inhabitants to open up or keep the roads in repair he reported to the intendant, whose orders were promptly obeyed. But after the cession his duties were prescribed by the justices of the peace assembled in quarter sessions. The justices also, later on, were municipal administrators as well as judges. The duties of the *grand voyer* were then restricted to mere supervision, and the legislature imposed what was called "statute labour" upon the inhabitants, which will be referred to presently. The successor of the *grand voyer* is found to-day in the road inspector (*inspecteur de voirie*), whose functions are prescribed by the municipal code, and in the city surveyors of the incorporated towns and cities.

Corvée or Statute Labour.

The *corvée* was the system whereby the seigneur or other landholder was entitled to a certain amount of manual labour from his tenants or *censitaires*, usually for the repairs of roads and bridges. It was introduced into Canada from France, and was provided for in all deeds of concession. De Tocque-

ville says that the plan of keeping roads in repair in France by *corvées* was first commenced towards the close of Louis XIV's reign; and the strange notion that the cost of keeping the roads in repair ought to be borne by the poorest persons in the community and those who travel the least took such root in the minds of those who were gainers by it that they soon came to believe that no other system was feasible. In Canada the *censitaire* owed *corvées* to his seigneur, and the intendant enforced the obligation by his ordinances. Ordinarily, the seigneur was not obliged to furnish tools or food. In 1716, Michel Begon, Intendant, issued an order forbidding the insertion of the clause relating to *corvées* in future deeds of cession.[1] The system, however, had taken deep root, and remained till after the conquest. In 1796[2] Parliament by special statute sanctioned the system, permitting, however, a commutation of the duty of *corvées* by a money payment. This statute, which gave it the English name of statute labour, at first caused great dissatisfaction, and was the occasion of serious riots in Quebec and Montreal.[3]

When the *grand voyer* failed to get the habitants to clear or keep a road in repair, he reported to the intendant, whose mandate, with its alternative penalties, was usually effective.[4] After 1796 as "road inspector" he was under the direction of the local councils.

Early Municipal Government under British Rule, 1760-1774.

Before considering the special features of the parliamentary legislation of subsequent years, let us glance at the general character of municipal administration during the early years of British rule. For three years after the capitulation, until peace was restored, Canada was under military government. General Amherst, as Commander-in-Chief of the British forces with headquarters at New York, divided Canada into

[1] Edits et Ord., ii, 444.
[2] 36 Geo. III, c. 9.
[3] Report Can. Archives, 1891, xl, which points out that these riots were probably the fruit of political agitation of foreigners.
[4] Edits et Ord, ii, 288, 341, 383. The road connecting Quebec and Montreal was opened in 1733.

three military districts, with Quebec, Three Rivers and Montreal as their *chefs-lieux*. General James Murray, Col. Ralph Burton and General Thomas Gage were placed in charge of the respective districts. In 1763, after the signing of the treaty of Paris, Canada under the name of Quebec, with indefinite boundaries to the west, was established as one of the four British provinces in America, and General Murray was made the first Governor-General.[2]

General Murray's commission as Captain-General and Governor-in-Chief bears date November 21, 1763. There was at least no striking difference between the form of this and the French administration. The English governor merely replaced the French intendant. There was a vast difference, however, between the devotion to the public service which marked the career of General Murray and the shameless thieving that disgraced Bigot, the last of the intendants. It should be noted, too, that General Murray governed with the advice and assistance of a council composed of eight prominent citizens; and the ordinances passed were described as the ordinances of the Governor and Council.

The Governor received royal instructions to lay out townships and set apart blocks of land for the support of clergymen and schoolmasters. His ordinances relate to all kinds of municipal matters down to the weight and price of bread. For instance, in October, 1764, the Governor and Council decided that the six-penny white loaf should weigh four pounds, and the brown loaf six pounds, as long as flour should sell for fourteen shillings per cwt. The clerks of the two cities were instructed to inspect markets and bakeries once in three months at least, and to stamp and brand all weights and measures. Every loaf had to be stamped with the baker's initials, and the clerks had authority to stop waggons on the streets for inspection.[3] Certain writers have taken satis-

[1] Houston's *Constitutional Documents of Canada*, p. 74.

[2] The members of the first council were : Chief Justice Gregory, Paulus Æmilius Irving, Hector Théophile Cramate, Adam Mabane, Walter Murray, Samuel Holland, Thomas Dunn and François Meunier.

[3] Smith's *Hist. of Canada*, p. 5. Doutre and Lareau, *Hist. du Droit Canadien*, p. 94.

faction in characterizing the administration of Murray and his council as *Le Régime Militaire*, and dwelling upon all the rigorous implications associated with military rule. As a matter of fact, nothing could have exceeded the mildness and considerateness of General Murray's administration.

On March 27th, 1766, an ordinance was passed for repairing and mending the highways and bridges in the province, "which," said the ordinance, "for want of due and timely repairs and amendments are become impassable." In 1768, to provide against conflagrations, the Council ordered that in Montreal and Quebec and Three Rivers chimneys be cleaned once in four weeks during the winter, from the 1st of October to the 1st of May. Every householder was required to be provided with two buckets for water, made either of leather or sealskin, or of canvas painted without and pitched within, and holding at least two gallons each. Every housekeeper was required to keep a hatchet in his house to assist in pulling down houses for the purpose of preventing the spreading of fire, and two firepoles of specified length and shape, to knock off the roofs of burning or endangered houses. Every housekeeper was also required to keep on the roof of his house as many ladders as he had chimneys, so placed that easy access might be had to sweep the chimneys, or carry water up to them in case of fire. Hay or straw in a house, ashes on a wooden floor or in a wooden bucket, were forbidden under penalty. The erection of wooden houses was thereafter forbidden, and restrictions were placed upon the use of shingles, and upon the manner of placing stovepipes from room to room. Overseers were appointed and the justices were empowered to enforce penalties.[1]

Municipal Government under the Quebec Act, 1774-1791.

The Quebec Act of 1774, passed on the eve of the American Revolution, declared it "at present inexpedient to call an Assembly." About the same time the province was further

[1] Ordinances printed in 1767 by Brown and Gilmore, Quebec, very rare. A copy exists in the archives of the court-house, Montreal.

agitated by the American incursion which ended with Montgomery's vain attempt against Quebec (December, 1775). The power thus in charge of municipal affairs was the Legislative Council, a nominated body of not less than 17 and not more than 23 members, appointed under the Act. This council, which was first presided over by Sir Guy Carleton, afterwards Lord Dorchester, whose name is preserved in the stately Dorchester Street of Montreal, continued for nearly thirty years. It was given power with the consent of the governor to make ordinances for the good government of the province. As regards taxation, however, only such taxes could be levied which were for purely local purposes. Any ordinance might be disallowed by the King within six months. The council sat with closed doors in the castle of St. Louis on the citadel rock of Quebec, deliberating, as the records show, with a good deal of practical wisdom.

For some time after its appointment, however, municipal affairs received but scant attention owing to the excitement caused by the Quebec Act;[1] and in purely local affairs, the business of the parish was still controlled by the curé, the seigneur and the captain of militia or constable, practically as in the days of French government. In fact the Imperial Government was on the whole careful to continue the old institutions and regulations to which the people were accustomed. Thus, while in 1764 the people of a parish were allowed to elect six officials to act as road inspectors and constables (*baillis* and *sous-baillis*), in 1777 the old office of *grand voyer* was re-established.[2]

Amongst the municipal ordinances enacted we find regulations for markets, which recall older English legislation against forestalling. Butchers and hucksters were forbidden to make their purchases before ten in the forenoon in summer, or noon in winter. Provisions and provender and livestock brought by boat could not be disposed of until an hour's notice had

[1] This Act (1774) made French civil and English criminal law the law of Canada, and this led ultimately to the separation of the provinces of Upper and Lower Canada (1791), Upper Canada being placed under English civil law.

[2] Doutre et Lareau, *op. cit.* II' 100.

been given to the inhabitants by the bell-man, so that all might have equal opportunity to buy.[1]

Municipal Government under the Constitutional Act, 1791-1837.

With the increase in numbers of the English-speaking population it was found necessary to divide Canada into two parts, one under English, the other under French civil law. Accordingly, in 1791, the Constitutional Act was passed dividing Canada into Upper and Lower and giving each province a Parliament and a legislative council. These legislative bodies continued the paternal oversight of local affairs which the appointed councils had previously exercised. Every municipal statute or ordinance defined and explained the duties of the magistrates in relation to it. It is this situation that makes clear Lord Durham's statement that the inhabitants of Lower Canada "were unhappily initiated into self-government at the wrong end, and those who were not trusted with the management of a parish were enabled by their votes to influence the destinies of a state."

In 1792 (May 7), the province was for the first time divided into counties, but for legislative purposes merely. The counties were 21 in number. Very few of the county names (mostly English) then assigned were allowed to remain when the legislature in 1829 increased the number of counties from 17 to 40. In 1851 the number was again raised by 35, making in all, as to-day, 67 county municipalities.[2] For purely judicial purposes, there were four districts, Quebec, Three Rivers, Montreal and St. Francis (See 7 Vic. c. 16, s. 3). The parishes, we have seen, were the old subdivisions of the seigneuries established in the days of the French régime. The townships then laid out date from a few years after the conquest, and were intended to aid survey and settlement. Such were the more important divisions of the province at this date.

In May, 1796, the first provincial Parliament passed a very elaborate and important statute for making, repairing,

[1] 17 Geo. III. cap. 4.

[2] Rev. Stat. Que., Art. 61, 73, 75.

and altering highways and bridges in Lower Canada. In the cities of Quebec and Montreal the local magistrates were directed to divide their respective cities into six districts, and to appoint a surveyor, overseers, and assessors. Personal service or "statute labour" was imposed under penalties, public policy being as far as possible to avoid direct taxation. It was this statute that was the occasion, as has been stated already, of serious riots in both cities. This was the era of government by magistrates or courts of quarter sessions. Lack of popular control over local administration, e. g., the laying of roads and disputes with the central executive, led finally in 1837 to a brief rebellion which must be regarded as the turning point in the history of responsible government in Canada. It led quickly to the addition of local autonomy.

Municipal Government under the Special Council, 1837-1841.

During the administration of the Special Council in Lower Canada, consequent upon the suspension of the constitution during the rebellion, an ordinance was passed in 1840[1] "to provide for the better internal government of this province by the establishment of local and municipal institutions therein." It divided the province into 22 districts, each of which was constituted a body corporate with special but limited powers. Here begins the municipal government of Quebec based upon the elective and representative principle. The Governor was still clearly for a time well-nigh supreme through his power to appoint and instruct the warden, dissolve under special circumstances the district council, etc. The Governor in Council also determined the number of councillors and instructed the various officers. In 1840, furthermore, Montreal and Quebec received their second charter, the first having been suspended in 1836 after four years' trial.[2] Since that time they, in common with the leading towns and

[1] 4 Vic., cap. 4.

[2] Special charters had been granted by the legislature in the year 1832 to Quebec and Montreal for the term of four years. At the expiration of that time, owing doubtless to the troubled condition of political affairs the charters were not renewed. In 1840, however, new charters were granted.

cities of the province, look directly to the legislature for any increase or modification of their corporate powers.

The ordinance of 1840 enacted that each district should have a warden and councillors. The warden was appointed by the Governor, and the councillors elected by the inhabitant householders. A parish or township with a population of less than 3,000 elected one councillor, or if it had a population of 3,000 or more it elected two councillors, subject, however, to the Governor's proclamation in such matters. Municipal service as a councillor was compulsory under pain of a fine. One-third of the council retired annually, no councillor receiving any fee.

The district councils were empowered to make by-laws for roads and bridges, to establish schools, levy assessments, impose penalties for refusal to take municipal office, etc. They were also authorized to exercise the powers and duties of the *grand voyer*, whose chief office was thus virtually abolished, under provision for indemnification. No by-law for any public work was valid without a previous estimate and report as to expenditure, and all by-laws were subject to disallowance by the Governor. The councils held quarterly meetings and special meetings called by authority of the Governor. The Governor fixed the place of meeting and appointed the district clerks and treasurers. He could also dissolve a council at pleasure; but in such an event the warden had power to cause a new election to be held. Two auditors were to be appointed annually, one being named by the warden, the other by the council.

By a special clause this ordinance was not to be construed as applying to the cities of Quebec and Montreal. It was complementary to one which was passed at the same time by the Special Council, "to prescribe and regulate the election and appointment of certain officers, in the several parishes and townships of this province, and to make provisions for the local interests of the inhabitants of these divisions of the province." The officials here mentioned were three assessors, one collector, one or more persons to be surveyors of high-

ways and bridges, two or more fence-viewers and inspectors of drains, and one or more persons to be pound-keepers, but certain of the offices might all be filled by one person. The control which the first of these ordinances so conspicuously reserved in the hands of the Governor was doubtless due to the troubled condition of the country, doubts being entertained as to the wisdom of entrusting larger local liberty to district councils.

The grant of local powers, instead of being received with any degree of enthusiasm, met with decided opposition. Various causes contributed to this. The time was notoriously one of political agitation. The Act of Union which was about to reunite Lower and Upper Canada was repugnant to a considerable portion of the inhabitants of the province. The reservation by the Council of the right to name the warden and other officials gave rise to suspicions that the object desired was to influence the result of popular elections. Finally, the fear of an increase in taxation as a result of the operation of the new law occasioned much alarm. A party called *Les Éteignoirs*, or "the extinguishers," sprang up whose *mot d'ordre* was to render the Act inoperative by the simple process of electing councillors on the understanding that they would do nothing to put it in operation. Their efforts were successful, and the Act of 1840 became a dead letter.

Municipal Government under The Act of Union (1841-1867). District Municipalities.

Accordingly in 1845, the Act of 1840 was repealed by an Act of which Mr. Morin was the father.[1] In place of the special districts of the Act of 1840 this statute constituted every township and parish a municipal corporation represented by an elected council of seven, whose head, styled the mayor, was also elective. Two councillors retired each year. A very considerable measure of authority was entrusted to the councils in 24 classes of subjects detailed in the statute. Provision was also made for the incorporation of villages or towns. Any

[1] 7 Vic. cap. 40.

three landowners of a village containing sixty houses or upwards within a space of sixty *arpents* might requisition the senior justice to call a meeting to consider the advisability of petitioning the parish council to fix limits and boundaries for the village or town. If the decision was affirmative, the boundaries were fixed and the election of councillors and incorporation followed, the councillors electing the mayor.

County Municipalities.

Two years later[1] Mr. Badgley (afterwards Mr. Justice Badgley) introduced successfully an Act whereby the parish and township municipalities were abolished and county municipalities substituted. The municipal council was to consist of two councillors elected for two years by each parish and township division of the county, one-half retiring annually. In event of any parish or township refusing to elect its councillors, the Governor was empowered to appoint them. Any town or village comprising at least forty houses within an area of not more than thirty *arpents* might be incorporated as a village or town and elect a council of seven. The usual assessors, collectors and overseers were appointed under this statute, and the office of deputy *grand voyer* was created. The powers of the council, which before related chiefly to matters of public order, were not materially altered, but additional powers were given which included the right to impose fines for contravention of by-laws; to compel circus companies, showmen and liquor dealers to take out licences; and to contract for the maintenance of summer and winter roads.

In 1850[2] municipal councils were permitted to amend their assessment tolls, when in their opinion the valuation already made was inadequate; they might also levy a rate of one halfpenny in the pound upon the assessed value of ratable property for general purposes. By the same Act any township containing 300 souls was allowed to elect councillors, and to be considered a township or parish for all municipal purposes. Muni-

[1] 10 and 11 Vic. cap. 7.

[2] 13 and 14 Vic. cap. 34.

cipal powers were also extended to provide for the sale of lands upon which taxes were due, for the construction and maintenance of roads, bridges, fences, for the imposing of penalties, etc.

In 1853[1] an Act was passed to empower the several counties of Two Mountains, Terrebonne, Rouville, and Missisiquoi to take stock in any railway companies for the construction of railways passing through them, and to issue bonds to raise funds for the payment. During the same session another Act (cap. 213) was passed extending these provisions to the councils of all county, town and village municipalities in Lower Canada, and allowing the municipalities to invest in the capital stock of railway companies. A provision in this Act exempting by-laws for railway enterprises and investments from being submitted to the people was repealed in 1854.

By an Act of the same year[2] a consolidated Municipal Loan Fund for Lower Canada, similar to the one authorized in 1851 for Upper Canada, was established. This novel and dangerous fund was limited to £1,500,000 for each province, and was managed by the Receiver-General under direction of the Governor in Council. Any incorporated city, town or village might raise money on the credit of this fund for gas or water-works, drainage or roads, to an amount not exceeding 20 per cent. on the aggregate assessed valuation of the property affected by any by-laws that might be passed in the municipality. The entire public debt contracted under the provisions for this fund speedily reached the sum of $9,500,000, and as most of the borrowing municipalities were utterly unable to pay the interest the greater portion of it had to be met from the public exchequer, and Parliament was subsequently obliged to pass measures for their relief. Most of the works constructed were, however, of great benefit to the community, and aided in no small degree to develop its resources.[3]

In 1855 a most important and elaborate Act—the Lower Canada Municipal and Roads Act,[4] was passed. It reformed

[1] 16 Vic. cap. 138.
[2] 18 Vic. cap. 13.
[3] McMullen, *Hist. of Canada*, p. 519.
[4] 18 Vic. cap. 100.

the municipal system of the province and established therein county, parish and township, town and village municipalities, all of which were represented by elective councils. The statute was amended and classified in 1856[1]. In 1858[2] appeals from the decision of councils were provided for in certain cases. These Acts may be considered as the basis of the present municipal system.

Town Corporations General Clauses Act.

In 1876[3] the Town Corporations General Clauses Act was passed. It is reproduced in the Revised Statutes of Quebec under the title of Municipal Matters (Articles 4178 to 4640). Its provisions apply to every town corporation or municipality established by Act of the legislature, unless expressly modified by a special charter. At present the cities of Quebec, Montreal, Sherbrooke, Three Rivers, St. Hyacinthe and forty-two towns are incorporated by special statutes or charters which from time to time, on petition, the legislature amends. This Act gave a municipal council jurisdiction beyond the municipal limits where special power is conferred. Loans could only be made under a by-law of the council, afterwards approved by a majority of the property holders and a majority of the realty assessment. The council was given full control over specified subjects. The municipal lists and valuation rolls were made yearly; and special powers were given to commute taxes in favour of local industries and also to appropriate land for municipal purposes.

The Cities and Towns Act of 1903.

A fresh Act, called the Cities and Towns Act, 1903, specified in greater detail the powers and duties of cities and towns not governed under special statutes, and constitutes within its limits a species of general municipal Act. It is the latest and most complete delimitation of municipal functions, replacing the Town Corporations General Clauses Act. The Lieutenant-

[1] 19 and 20 Vic. cap. 101.
[2] 22 Vic. cap. 101.
[3] 40 Vic. cap. 29.

Governor in Council may, by letters patent, erect any territory forming a village municipality into a town municipality, if it contains at least 2,000 people; and may erect any village or town municipality into a city municipality if it has a population of 6,000, the number of the population being determined by a special census. The council applying for the erection of its territory into a city or town municipality must give public notice of its intention in the *Quebec Official Gazette*, and furnish certain particulars as to population, the proposed name and limits of the city, the number of its wards and councillors, the proposed time of voting, etc. (secs. 14-16).

Notwithstanding the excellent General Clauses Acts, with their provisions for the growth of villages and towns, and easy change of status from village to town and from town to city as population and area warrant, the very general tendency on the part of villages and towns is to apply to the legislature for special charters of incorporation; while the legislature, provided the application is made with a fair degree of unanimity, never withholds its consent, and presumably as unfailingly collects the incidental fees. The special Acts of incorporation that have been granted, notwithstanding the facilities offered by the municipal code and the General Clauses Acts referred to, are very numerous. But it is fair to assume that the "Cities and Towns Act of 1903" is likely to arrest the stream of applications.

The Municipal Code.

The province of Quebec also possesses a special municipal code, which was introduced into the legislature by the Honourable G. Ouimet, as Attorney-General, in 1870. It applies to all the territory of the province other than the cities and towns incorporated in virtue of the General Clauses Act, the Cities and Towns Act, or by special statute. This territory is divided into county municipalities, which are in most cases identical with the counties as electoral divisions for the provincial assembly.[1] Each county may include country (rural), village and town municipalities. A country municipality may consist again of a

[1] The Municipal Code applies to municipalities created by the general division of the whole province into such.

parish or of a township or of a part of either, or of parts of more townships than one. The inhabitants and ratepayers of every county and every country village and town municipality form a corporation or body politic, having perpetual succession and a general grant of all powers necessary to accomplish the duties imposed upon it. As regards population, a country municipality must have three hundred inhabitants and a village at least forty inhabitants within sixty *arpents*.

Under the municipal code the county council is composed of the mayors in office in all the municipalities in the county. In the council these mayors bear the title of county councillor. The head of the council is the warden (in French *préfet*) who is chosen from among the county councillors in March of each year. The ordinary or general sessions of the council are held quarterly. Each council has seven members who are elected each year on the second Monday in January. Nominations may be either verbal or written, and the voting is open. If a municipality fails or neglects to elect the required number of councillors, the Lieutenant-Governor may appoint them. Councillors hold office for three years, two retire annually in each of two years and three in the third year.

The second part of the municipal code treats of the powers of councils, the powers being much the same as in Ontario. One exceptional clause allows an appeal to be made from the passing of a by-law to the county council, except as regards by-laws relating to the prohibition of the liquor trade and money by-laws. All real estate is taxable except government, religious and educational holdings, and (to a limited extent) those of railway companies. The valuation roll is made in the months of June and July biennially, is revised by the council, and is open for inspection during a specified period. The municipal code deals with the all-important subject of roads, specifying those persons liable to render services on roads in the absence of a *procès-verbal* or by-law, defining winter roads—the line of which is marked by means of *balizes* of spruce or cedar, etc. An interesting provision is to the effect that when two or more counties are jointly interested in any public work their

county councils may each appoint annually three persons to a board of county delegates, the warden being *ex-officio* one of the three. Such works as roads and bridges come most frequently under their care and help to bring about a measure of municipal co-operation.

Public Health.

By the municipal code power is given to the local council to establish boards of health and to adopt sanitary precautions against contagious diseases; also to provide for a pure water supply.[1] But the chief responsibility is imposed by statute upon a board of health, consisting of seven persons, four of whom must be qualified physicians in practice for at least five years. The members of the board are appointed for a period not exceeding three years. The president receives an annual indemnity of $400; the secretary an annual salary of $2,400. The duties of the board consist in preparing and studying vital and medical statistics, in making sanitary investigations, either directly or through municipal councils, in establishing, supervising, and advising local boards of health, and in distributing practical information throughout the province upon matters of health and disease. The board has power to make, amend and repeal by-laws for the promotion of public health, and the prevention of disease, and when the local by-law is contrary to that of the provincial board the latter prevails. By a recent statute[2] the law respecting public health has been amended and consolidated, and among the important subjects included in the new law are provisions relating to drinking-water (no aqueduct or intake for which can be established without the approval of the board), and the inspection of food and drink, regulations respecting contagious diseases, the enactment of by-laws for the maintenance of health in industrial establishments, vaccination, vital statistics, and prosecution for infractions of the law.

The appointees to the board of health are men of repute and activity, but it is clear from the reports included in the

[1] Mun. Code, arts. 607 et seq.
[2] 1 Edw. VII. ch. 19.

sessional papers printed by the legislature that a stricter enforcement of the law which requires local municipalities to report to the central authorities is necessary for complete efficiency. For example, the recorder of statistics remarks in one place : "So many municipalities have neglected to send in a report of births and deaths that we hesitate to place before our readers a comparative table of marriage rates of other countries and of the province of Quebec. We do so, however, to awaken, if possible, the apathy of those who are the immediate cause of the defect in our statistics."

Education.

The system of separate schools for Roman Catholics and Protestants prevails in the province. In any school municipality any number of ratepayers professing a religious belief different from that of the majority may form a separate corporation for school purposes under the administration of trustees. Educational affairs are under the supervision of a Council of Public Instruction, consisting of members appointed by the provincial Government. The council is divided into two committees, one composed of Roman Catholic, the other of Protestant members. Each of these committees appoints its chairman and secretary, and makes regulations for the organization, administration and discipline of its section of the public schools, including the division of the province into districts for inspection, the regulating of normal schools, text books, boards of examiners, and like matters. The nominal head of the department of public instruction is the Superintendent of Education, who is *ex officio* a member of the council, and whose duty it is to distribute according to law the legislative grants for educational institutions. He is also the statistician and intermediary between educational bodies and the legislature. For educational purposes the province is divided into school municipalities under the control of school commissioners; and these municipalities are again subdivided into school districts, no one of which must exceed five miles in length and breadth. The Education Act (62 Vic. cap. 28) provides machinery for the annual election of commissioners or trustees,

the collection of taxes, appointment of school inspectors, examination of teachers, the application of the public school fund, the establishment of normal schools and pensions for teachers.

From the report of the Superintendent of Public Instruction dated 12th February, 1903, it appears that there are 6,078 schools in the province, with an attendance of 333,431[1]. Of these, 5298 are elementary schools, 568 model schools, and 166 academies. There are four universities; eight schools of art and design; five normal schools with six schools annexed to them; four schools for the deaf, dumb, and blind; and nineteen Catholic classical colleges. The same source places the aggregate governmental contributions to schools at $236,867, of which public schools received $160,393, superior education $55,646, and the poor municipalities $20,827.[2] In the larger towns and cities educational facilities are fairly ample, although the rapid increase of population in Montreal is sorely taxing the accommodation provided; but the condition of the rural schools leaves much to be desired. Some conception of these may be derived from the fact that the average salary of teachers in Roman Catholic elementary schools is $110, and in Protestant elementary schools $151.[3]

Justice.

The Cities and Towns Act, 1903, provides for the organization of courts of record styled Recorder's Courts,[4] the judges of which are appointed by the Lieutenant-Governor in Council upon nomination by the town council. The recorder must be an advocate of at least five years' standing, and his salary, rarely exceeding $500, is paid by the council. In Montreal, however, there are two recorders, appointed by the Lieutenant-Governor in Council, and removable only upon joint address of the two Houses of the legislature. Their emoluments *per annum* are $4,000 each, with additional fees as license and expropriation commissioners. They have all the powers of

[1] Sess. Pap., Rept. of Supt. of Pub. Inst., p. xiii.
[2] Ibid. p. 180.
[3] Ibid. p. xii.
[4] Such courts have long existed in the larger towns, but this Act removes the necessity for special application to the legislature for their organization in future.

judges of the sessions of the peace, in addition to special jurisdiction for the trial of suits under the city's by-laws, appeals from assessments, revision of voter's lists for civic elections, and concurrent jurisdiction with the circuit court in suits between lessors and lessees. The Lieutenant-Governor in Council also appoints stipendiary magistrates, called judges of the sessions of the peace, for the cities of Quebec and Montreal, and district magistrates, with the powers of two justices of the peace, for petty criminal jurisdiction in the various judicial districts of the province as required by public exigencies. The nomination of justices of the peace is largely complimentary.

Municipal Statistics.

The compilation of municipal statistics either by the municipalities or by the provincial Government is as yet very inadequate. The few available data are found in the provincial sessional documents, in the Dominion census returns and in the treasurers'reports of the several municipalities. The sessional documents for 1902 disclose for each local municipality the number of residents, taxpayers, and acres of land appraised; the estimated value of taxable and non-taxable real estate; the gross receipts, payments, assets and liabilities. The aggregates under these respective heads are as follows:

Number of Residents	1,136,540
Number of tax payers	249,780
Number of acres appraised	19,032,725
Estimated value of taxable real estate	$280,687,222
Estimated value of non-taxable real estate	37,019,816
Receipts	4,157,441
Payments	3,849,407
Assets	8,915,234
Liabilities	12,224,472

The last Dominion census (1901) enumerates 140 villages, 42 towns and 10 cities, the cities varying in population from 7,057 for Sorel to 267,730 for Montreal. Quebec has a population of 68,840. Of the other eight cities other than Montreal and Quebec the average population is 11,500. But there are a

number of "towns" with larger populations than some of the "cities," for example, Valleyfield with over 11,000, and St. Louis de Mile End with almost 11,000, and Westmount with nearly 9,000.

Conclusions.

On the whole a study of the municipal institutions of the province of Quebec discloses the fact that they are a product of British rule. The Canadians of French descent, forming in 1901 eighty per cent. of the total population, have shown since the period of 1837–40 a constantly growing interest in local administration, and have realized in that field a satisfactory measure of success. Possessing large powers of initiative, the bigger towns, such as St. Hyacinthe, Valleyfield, Three Rivers, Sorel, and not a few of the smaller ones, have begun to adopt those modern appliances for light, sanitation, and public utility which distinguish progressive communities. As to borrowing powers, the legislature still retains full authority. Rightly exercised, this must prove a safeguard against possible extravagance. Montreal, with its annual expenditure of nearly four millions of dollars, is the only city of its class in the province, and in its occasional struggles with corporate interests has frequently illustrated the serious problems incidental to the utilization of public franchises. In this respect the history of Montreal cannot but be an important object lesson on the dangers to which the smaller towns and villages will be exposed in the course of their development. It is to be hoped that in their relations with the legislature the evils of "log-rolling," elsewhere so notorious and baneful, may be escaped.

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THE EVOLUTION OF LAW AND GOVERNMENT IN THE YUKON TERRITORY

BY

JOHN N. ELLIOTT BROWN, M.B.

FIRST TERRITORIAL SECRETARY OF THE YUKON

THE EVOLUTION OF LAW AND GOVERNMENT IN THE YUKON TERRITORY

Legislation affecting the Yukon has been created mainly by House of Commons); (2) Acts of the Dominion Parliament; and (3) Ordinances of the Yukon Council (subject to disallowance by the Governor-in-council). A portion of the Yukon boundary has been the subject of international arbitration; and for a time one Yukon city and one Yukon town have had charge of their own local affairs.

The legislative acts of the Governor-in-council and of the federal Parliament have been prompted largely by the Minister of the Interior, under whose especial supervision the Yukon has always been. Other ministers had representatives in the country, even during its early history. The Minister of Customs had a collector; the Minister of Justice, a judge and sheriff; and the Postmaster-General an inspector and a postmaster; but during the first seven years of the history of the mining camps no minister visited in person this important part of the Dominion.

The interest of the Canadian Government in the Yukon District was first roused by a letter from the venerable Bishop Bompas of the Diocese of Selkirk in the Yukon valley. His Lordship reported that in the winter of 1892 and 1893 some two hundred British and American miners had entered the Yukon district and "were teaching the Indians to make whiskey, with demoralizing effects both to whites and Indians and with much danger from the use of firearms," and asked that a detachment of North-West Mounted Police be sent into the district to keep the peace. In view, however, of the difficulties and expense of transportation and the possibilities of international complications, the request was not acceded to at once; but, after further entreaty from the Bishop, supported by a communication from the secretary of one of the large companies trading on the Yukon river, the Government decided to send into the district an inspector of the North-West Mounted Police "in the interests of peace and to act as government agent in regulating the liquor traffic, and to look after the public revenue, and administer justice generally." The agent, Captain Constantine, with his clerk, arrived at Fort Cudahy on the Yukon river (a post

forty miles from the site of Dawson and about fifty miles from the Alaskan boundary) in the latter part of 1894. He commenced his duties in a log cabin chinked with moss and covered with earth. In June, 1895, he was clothed with magisterial power, and was appointed Land Agent and Collector of Customs and of Inland Revenue.

On the 2nd of October, 1895, the Yukon (until now only a corner of the great North-West Territory) was elevated to the dignity of a District, with an area of 196,976 square miles, almost equal to that of the whole of Ontario. On that August day of 1896 on which Carmack and his Indians made the wonderful discovery of gold on Bonanza creek Captain Constantine transferred his customs duties to a representative of that department; and in 1897 he handed over the recording of claims to an official of the Department of the Interior, styled Gold Commissioner. This official also took over the land agency.

Meantime thousands of men from all parts of the civilized world had pushed through "the rock-locked gates" of the Chilcoot to the "golden doors" of the Klondike. To supervise "the stampede" and minister to the stampeders, the Government sent in a squad of sturdy North-West Mounted Police. The Police maintained law and order in the Yukon, as they did in the North-West—a fact that means much when one considers the character of the cosmopolitan population. During the first two or three years their work was confined mainly to Dawson and its immediate environment, "the creeks." Most of the creek posts were within a distance of fifty miles from Dawson. Other posts, however, more remote, were established by degrees, extending from the boundary between Alaska and the Yukon to the White Pass in the Coast range, some six hundred miles further south. The powers of the Police were extensive. In addition to the duties peculiar to that body, they acted as collectors of the royalty tax, which the Government exacted from the miners; as mining recorders and postmasters; and as assistant collectors of customs. The officers were all magistrates; and, to the motley population which first rushed to the district, they represented paramount authority. On the 16th day of August, 1897, the Yukon Judicial District was created, and a judge was sent in from the Territories.

On August the 17th, 1897, Major Walsh, of Sitting Bull fame, was appointed chief executive officer of the Dominion Government in the District under the title of Commissioner of the Yukon. He reached the southern portion of the District in the late autumn and camped for the winter, being engaged in regulating the rush of incoming miners. In the spring of 1898 he proceeded down the river to Dawson, which, by that date, was a tumultuous city of tents. Commissioner Walsh was invested with complete authority over all the Yukon government officials, with full command of the North-West Mounted Police; and by special commission he held the unique and unusual power to alter or amend any of the mining regulations issued under authority of the Governor-in-council, if he considered such change to be in the interests of the miners. Although possessing autocratic powers, the Commissioner frequently called in council informally a number of other officials who had been appointed to positions in the service, in the persons of the Judge, the Crown Prosecutor, the Gold Commissioner, the Mining Inspector, and one or two others.

Major Walsh's *régime* was marked by (1) the establishment of the first territorial Court, presided over by Mr. Justice McGuire; (2) the reduction of the royalty tax of 20 per cent. (imposed by Order-in-council on all gold mined in the Yukon) to 10 per cent.; (3) the establishment of police posts along 600 miles of the Yukon river—between Lake Bennett and Dawson, and also upon the rich gold-bearing creeks near Dawson; (4) the collection of license fees and the regulation of the traffic in intoxicating liquors. At this time liquor permits were being issued by the North West territorial Government, as well as by the federal Government, a tangle which for a time created considerable confusion in Dawson, as well as in Regina and Ottawa.

Major Walsh spent some $15,000 in the relief of miners stranded on the trail; and by way of prevention of future hardship gave orders that no miner should be permitted to enter the District without being provided with a grub stake. Major Walsh's successor, Mr. William Ogilvie, and Colonel Steele, Commandant of the N.W.M.P., enforced even a stricter regulation, but the federal Government countermanded the

order, informing the officials that they had exceeded their prerogatives in preventing free ingress of aliens. Although *ultra vires,* the regulation was generally viewed at that time as a wise one.

Major Walsh resigned within a year of his appointment and was succeeded as commissioner by Mr. Ogilvie, whose local knowledge and experience in the Yukon during the earliest days of the Klondike discovery eminently fitted him to deal with the country and its needs. Mr. Ogilvie's appointment followed the passing of the Yukon Territory Act by the Dominion Parliament (13th of June, 1898). This Act made the Yukon District a separate territory, with local government by a Council holding similar powers to those held by the Lieutenant-Governor and Legislative Council of the North-West Territories. This Council was presided over by the Commissioner. The other five members of the Council were the Superintendent of the North-West Mounted Police, the Judge, the Gold Commissioner, the Registrar, and the legal adviser—all being appointees of the Governor-in-council.

The Act provided that the laws relating to civil and criminal matters and the Ordinances of the North-West Territories at the time of the passing of the Act should be and remain in force in the Yukon until amended by an Act of Parliament, Order-in-council or Ordinance of the Yukon Council. Ordinances relating to the sale of intoxicating liquors, fires, aid to hospitals, inquiries into public matters, trespassing, assessment of the town of Dawson and the protection of game, were among the earlier legislative acts of the Council.

The first Yukon Council meetings, held in October, 1898, were attended by the only three members of that body who had reached the Territory—the Commissioner, Mr. Ogilvie, Mr. Girouard, Registrar, and the N.W.M.P. Commandant, Colonel Steele. During the first year the Council met every few days. The proceedings were rather informal for a time; later, the procedure was made to follow parliamentary practice. During the first two years the meetings were conducted with closed doors, but through the persistent outcry of the press and the people, an amendment to the Yukon Act (passed August 11th, 1899) provided that the sittings of the

Yukon Council should be public. The Council had no power to enact or amend the mining regulations; these were passed at Ottawa by the Governor-in-council, under the authority of the Dominion Lands' Act and the Yukon Territory Act, and embodied in various Orders-in-council. The first regulations were issued in January, 1898; the second, containing amendments to the first, in March, 1901. They were based mainly on certain traditional regulations of the early miners, upon the recommendation of the Yukon officials, and upon the representations of the miners themselves by petition or otherwise. Before the organization of government in the Yukon, the miners themselves, at " miners' meetings," framed and adopted certain primitive regulations, which were strictly adhered to. Cases of dispute were settled by discussion and majority vote in open meeting called for the purpose. One of the miners was deputed to act as Recorder of Claims.

Briefly, the mining regulations gave a miner, on payment of ten dollars, the privilege of prospecting for gold for one year on unreserved Crown lands; and, if he desired, on payment of fifteen dollars, of leasing a claim for one year. To hold the claim the yearly renewal of both mining certificate and lease was compulsory, whether the claim was a rich one or a " wild cat." In addition to these heavy fees (regarded as taxes) the miner had to pay a royalty of at first twenty, then ten, then five, and, finally, two and one-half per cent. of the output of his claim. For a number of years the output under five thousand dollars was subject to exemption. The fees and royalty tax were considered excessive and burdensome, and were reduced only after many appeals from the miners for reduction. At the end of the year, in order to obtain a re-lease of a claim from the Crown, it was necessary (up to two years ago) to do two hundred dollars' worth of work or to pay two hundred dollars in lieu thereof. Claims varied in size, depending on whether they were in the creek valley, on the hillside, or on the bench beyond the summit of the valley. In the early days a creek claim extended 500 feet up and down the creek and from rim rock to rim rock in width or, later, from the base of the hill on one side of the valley to the base of the hill on the other side in

width. The regulations further provided the basis upon which the miner could secure water with which to wash up his dumps.

Mining disputes were heard by the Gold Commissioner, with right of appeal to the Minister of the Interior at Ottawa. They might also be heard in the territorial court, from which appeal lay primarily, in the early days, to the Supreme Court of Canada, later, to the less remote Supreme Court of British Columbia. After the arrival of a second judge, the two judges with the Gold Commissioner formed a Court of Appeal from the Gold Commissioner's court, the latter assisting in reviewing his own decisions. With the coming of a third judge an Appeal Court was established, consisting of the three judges, who heard appeals from the Gold Commissioner and from each of their own courts. Appeals from the court *en banc* could be taken to the Supreme Court of Canada, and on to the Privy Council.

During the evolution of the mining regulations litigation was exceedingly rife. Hundreds of miners lost everything at the hands of the disputants or the lawyers, and left the country in dismay. The main objections raised to the regulations were their frequent alteration by Order-in-council and the unduly high fees, which further did not secure to the miner a good title to his claim. The miner was anxious to have a firm hold on his claim, which he held only by leasehold from the Crown, renewable yearly. The validity of the title was often questioned, and many a valuable claim was lost to the honest tenant through the perjury and cupidity of a counter-claimant. Through the cupidity or stupidity of the applicant for a claim, or of the Mining Recorder, grants were often issued for ground already staked and for which prior grants had been issued; or a second surveyor, employed by a counter-claimant for the ground, might make a re-survey of the ground, by which the new claim would contain the paystreak and the old claim the barren muck and gravel. Later regulations happily tend to reduce such quarrels to a minimum. But the earlier regulations, subject to change at any time during the year by the Governor-General-in-council, never gave satisfaction to the Yukon public. Capitalists were afraid to invest their money in the country. The miners clamoured for a mining code. Finally Ottawa con-

sented, and a bill was prepared by the Commissioner from data received at first hand by himself and his coadjutors from the miners. These together with the best features of the mining regulations were collated and submitted to the Mining Committee of the Yukon Council for approval, then forwarded to Ottawa in the form of a draft bill, and passed by the House as "An Act Governing Placer Mining in the Yukon," which, according to ex-Commissioner McInnes, has had a very stimulating effect upon the mining industry.

Hydraulic Mining Regulations

As yet there have been only one or two attempts at hydraulic mining in the Yukon. A great many locations were leased and held for a number of years, but most of them reverted to the Crown without any development work having been done upon them. This was not the fault of the regulations. So long as most of the placer mines on a creek were being worked by ordinary placer methods, any extensive hydraulic mining was impossible.

The earliest hydraulic mining regulations were approved by Order-in-council in December, 1898, but were amended in a number of particulars on several subsequent occasions. They provided that a free miner might prospect on Dominion lands, and if he or his authorized agent found gold in quantities so small that he could not work the ground profitably by ordinary placer methods he might apply to the Government for a lease, which should cover an area extending five miles along a stream and in width a distance of one mile, or from summit to summit of the creek valley. The miner's affidavit as to the richness of the claim or pay-dirt had to be corroborated. The applicant was required also to obtain a certificate from the Gold Commissioner to the effect that the ground applied for was unfit for placer mining, and unoccupied by placer claims. Another certificate had also to be secured from the Commissioner of the Territory, to the effect that he was satisfied that the applicant or his agent had been upon the ground applied for and had personally prospected there. The application was then forwarded to the Department at Ottawa; and, if it was found that there were no prior applica-

tions for the ground, the applicant was permitted to have a survey of the location made. Upon the approval of the plans of survey the ground was closed by the Government against placer entry, and the applicant was given a provisional lease.

These regulations were found fault with for several reasons. It was said that the prospector was tempted to prospect only on low grade portions of the location, as, the lower his pannings, the more likely was he to receive a favourable consideration of his application. Applicants often secured the necessary certificates from the Yukon officials without having done more, in some instances, than a few days' prospecting on locations extending five miles along a stream. Great complaint was made by the prospectors generally because such large areas of gold-bearing gravel were closed to placer entry without having been thoroughly prospected. Many miners left the camp because of this. There were cases where miners who had prospected for months in certain districts found gold in quantities sufficiently rich to justify them in staking placer claims, but when they came to record were informed that the ground was held as a hydraulic concession. Further, the hydraulic mining regulations provided that the ground might be worked by "hydraulic or other mining process." This enabled the lessee of a hydraulic concession really to work the ground by the ordinary placer methods, as was done on the first hydraulic location applied for and granted in the Yukon.

Taxation and Representation

The Yukon Council, during the first year of its existence, could not, under the Yukon Act, levy taxes. The territorial revenue was derived mainly from liquor permit fees and liquor license fees, and the greater portion of it spent on the unincorporated town of Dawson. The Council felt that the people of Dawson ought to be taxed, and, as this could not be done under the Act, they appealed to Ottawa to amend it. Meantime the people of the Yukon and of Dawson were pressing for representation in the territorial Council; so the same Act which provided that the Yukon Council might tax the people contained a clause providing for the election by the people of two representatives to sit with the five appointed members of the Council.

Under authority of the amended Act the Council passed an Ordinance (April, 1900), providing for the assessment of Dawson. All real and personal property and income were made taxable "to meet the expense of local improvements and care of the public health." A special feature of the Ordinance was the assessing of the stock-in-trade, which was taken to mean the volume of business done by single merchants or firms. This was considered a hardship, as Dawson was very largely stocked with goods each autumn, which were turned over two and three times by wholesale and retail dealers, and hence became liable to double or triple assessment. The assessment of Dawson during the three palmiest years of the camp was as follows:—

	1901	1902	1903
Land	$1,941,950	$1,810,690	$1,835,550
Rate	....	....	2 %
Buildings and improvements	2,212,890	2,334,400	2,113,650
Personal property	6,293,700	5,856,800	4,056,450
Income	1,199,100	656,550	1,013,150
Total	$11,647,640	$10,658,440	$9,001,800
Rate	1¼ %	1¼ %	1½ %

Further Representation

The Yukon was peopled for the most part by British and American subjects, who, true to their traditions, kept up an incessant demand, through the press and by petition to the Commissioner and to the Government at Ottawa, for representation in the Dominion House of Commons, and for increased representation in the Yukon Council. Noting the strong sentiment of the people, the Hon. James H. Ross, soon after his arrival in the territory as Commissioner, made a strong appeal to Ottawa on both points. Accordingly in May, 1902, the Yukon Act was further amended, so as to provide for five elective members to the Council, with similar powers to those held by the five members appointed by the Governor-in-council. At the same time was passed the Yukon Representation Act, making the Yukon an electoral district with right to elect one member to the House of Commons.

While the campaign for representation in the Council and in the federal House was going on, the citizens of Dawson were directing their efforts towards self-government; and on December 16th, 1901, Dawson, with a population of over nine thousand, was granted a charter of incorporation as a city. Up to this time the Council had been looking after local affairs in Dawson. The elective members joined the people in the struggle for incorporation; but it was owing to Mr. Ross, who had previously submitted the wishes of the people to the Government on the question of territorial and federal representation, that this also was brought to a successful issue.

The charter provided that its main provisions should not come into force until Dawson was proclaimed to be incorporated. This proclamation was not issued until the Commissioner had submitted to the electors the questions:—"Shall Dawson be incorporated and be governed by a commission to be appointed by the Commissioner-in-council?" and "Shall Dawson be incorporated and be governed by an elective mayor and council?" The electors voted in favour of a mayor and council. The charter further provided that the mayor and aldermen were to be British subjects, over 25 years of age, and ratepayers. The mayor's property qualification was that he should be assessed on $2,000 real property, or upon real and personal property, separately or together, of at least $3,000. Voters had to be adult British subjects, rated upon the previous year's assessment, and having paid all taxes before nomination day. The mayor received a salary of $3,000 and an alderman $1,500. The North-West Mounted Police, under pay from the Dominion Government, did efficient police duty for Dawson. The Assessment Ordinance of the Yukon Council, under which the Dawson people had already been assessed for some two years, was continued as the basis of assessment.

The citizens of Dawson do not own any of their franchises. A private telephone company operates a system in Dawson but has no exclusive privileges. It is the same with electric lighting. The two companies have extensions from Dawson up the creeks to a distance of 50 miles. Some of the larger mine owners have their shafts and drifts lighted by electricity and use this power to drive their pumps when sluicing, and in their

cabins are telephones with which they are able to communicate with the city or with any of the creeks. The water supply is also controlled by a private company. In summer the water is carried through pipes to all parts of the city. In winter all branches are closed and the water is confined to the main. The pipes lie suspended in wooden boxes sunk some four or five feet below the surface. The water is pumped from a well near the Klondike river, warmed at the station and forced rapidly through the main, escaping into the Yukon river below the town. It has withstood ten days of a continuous temperature of over 50 degrees below zero (once as much as 68.5 below) without freezing. The street hydrants are kept from freezing by being sheltered in little metal houses heated with stoves. In winter water is carried on sleds to residents who do not live in the vicinity of the main. The city having suffered from three disastrous fires has a fire department, manned by over twenty firemen. There are two fire halls and three engines. The cost of maintenance has run as high as $70,000 per year.

More Representative Government

In July, 1901, Mr. Ross extended the possibilities for further representative government in causing the enactment of an Ordinance respecting unincorporated towns, which provided that the majority of the population of any settlement, containing not less than 10 dwellings, might petition the Commissioner of the territory to be made an unincorporated town with a measure of self-government. Male and female British subjects of age were permitted to elect a male voter as a paid overseer who should be mayor and council in one. This Unincorporated Towns Ordinance contained provisions respecting the prevention of disease and fires, and the trespassing of animals, etc. It provided that at an annual business meeting the work of the overseer during the year should be reviewed, and his estimates for the succeeding year considered. A direct tax up to twenty mills on the dollar could be levied, the assessment being made under the provisions of the general assessment Ordinance. Grand Forks, situated at the junction of Eldorado and Bonanza creeks, some 13 miles from Dawson (population in 1902 about one thousand), was the

only town to take advantage of the provisions of the Ordinance. Owing to the subsequent dispersion of the population its local government has reverted to the Yukon Council. In the meantime the establishment of Grand Forks and the incorporation of Dawson relieved the Commissioner and his staff of a great deal of work, and gave the people a larger measure of contentment and satisfaction. An amendment to the Towns Ordinance provided for the exaction of a business tax. This widened the circle of revenue producers, and the money was found very acceptable in meeting the many calls upon the overseer for streets, lighting, fire protection and similar services.

Acts Relating to Law Courts

In May, 1901, an Act amending the Yukon Act provided for the appointment of a police magistrate at Dawson and another at White Horse. A magistrate must have practised as an advocate, barrister or solicitor for a period of not less than three years. The new office relieved the Inspectors of the North-West Mounted Police of much work and extended the area of summary jurisdiction.

By another Act of the same session an appeal was allowed from the territorial Court to the Supreme Court of Canada. A third Act (passed in October, 1903) provided that two judges should constitute a quorum of the territorial Court *en banc*.

In September, 1902, the Yukon Council passed an Ordinance authorizing the consolidation of the Yukon Ordinances; and, by proclamation, these consolidated Ordinances went into force in July of the following year. In an earlier paragraph some of the first Ordinances of the Council were referred to. A brief reference to some of the more important later ones may be made here. The principal Ordinances of the North-West Territories which were made to apply, for the most part, *mutatis mutandis*, in the Yukon were:—the interpretation Ordinance, respecting controverted elections, vital statistics, the judicature Ordinance, respecting sheriffs, arbitration, mortgages and sales of personal property, joint stock companies, foreign corporations, benevolent societies. By the Yukon Council, Ordinances were passed relating to the following:—elections, steam boilers,

ferries, health, protection of miners, public administrator, summoning of juries, partnerships, marriage, the legal profession, medicine and surgery, dentistry, druggists, dogs, trespassing animals, public libraries and schools.

The establishment of schools, both public and separate, preceded any legislation respecting them. A private school, founded in 1898 by an Anglican missionary, was the earliest in Dawson. Shortly after this the Sisters of a Roman Catholic mission started a small school which was supported at first by the Catholic Church. In 1900 a public school was established with which the Anglican school became merged. The Catholic school remained separate, and later was given government support. The school law of the North-West Territories was applied to the Yukon schools. The pupils of the Dawson public school soon numbered nearly three hundred. In 1901, an inspector was appointed, who gave it a thorough organization. He also established schools on the leading gold-bearing creeks, each of which was entrusted to the care of a competent teacher. The teachers were well paid, receiving from $175 to $225 per month.

During the month of July, 1906, the Yukon Council passed a number of Ordinances affecting local affairs. Chief among these were:

(*a*) An amendment to the assessment Ordinance; whereby taxation by assessment upon land and trades licenses was extended to certain towns in the territory. The towns of Whitehorse and Grand Forks have been brought under the operation of the Ordinance.

(*b*) A succession duties Ordinance was passed; it was framed upon the lines of the British Columbia Act, the succession dues being made identical with those in that province.

(*c*) The juries Ordinance was amended so as to permit of juries being summoned in other parts of the territory besides Dawson.

(*d*) An Ordinance dealing with the preparation of voters' lists, and the conducting of elections of members to the Yukon Council. This Ordinance was carefully prepared by a representative committee of the Council, and was passed with the concurrence of all the members.

In 1903, at a cost of $25,000, Mr. Andrew Carnegie built a

library for Dawson, which was greatly valued. It may be said in passing that the intellectual level of the population of the Yukon District will probably be found to stand higher than that of any other similar community in the world.

In September, 1902, was passed the Public Service Ordinance, providing for the appointment by the Commissioner of various territorial officers—the Territorial Secretary, Treasurer, Superintendent of Works, Superintendent of Schools, License Inspector, and Health Officer; and outlining their duties. This was an important step because it transferred largely the control of certain of these officials from the Departments at Ottawa to the Commissioner in Dawson.

A Lien Ordinance was passed, the object of which was to enable the working miner to secure his wages by a lien on the mine or on the dump. It required a prolonged fight to get this Ordinance through the Council. It raised a difficult point in legislation, the Yukon Council having the right to legislate in reference to collection of wages, while the output of the mine, the dump, was Dominion land. It was held that the dump was beyond the jurisdiction of the Yukon Council, that to legislate thereon would be *ultra vires*. However, the Ordinance was passed, but, upon being submitted to the Governor-in-council for approval was disallowed.

A Step Backward

In the autumn of 1902 the Commissioner, Mr. Ross, became the first member of parliament for the Yukon. In the year following when it became necessary to elect a successor, the footballs of the campaign were the liquor licenses and the Dawson charter. There was no concealment of the situation. Mr. John T. Lithgow, Comptroller of the Territory, at a council meeting on July 25th, 1904, uttered these words:

"I think the probabilities are that the Commissioner will refuse to license when the applicants are not in friendly sympathy with the government; and that in cases where applicants take an aggressive part against the officials of this government, the probabilities are that they will lose their licenses."

Popular resentment of this statement, made in the "Parlia-

ment of the Yukon," led to a marked exodus to American mining camps in Alaska. In the matter of the Dawson charter, a slightly signed petition was presented asking for a local plebiscite to ascertain whether or not the municipal charter granted in 1901 should be revoked; and in July, 1904, such a plebiscite was provided for by Ordinance-in-council. Objections were raised on the ground of it being a piece of political strategy to gain control of local patronage. No penalties were fixed for fraud and no provision was made for appeal. The clerk of the municipal council, as returning officer, was given power to issue voting certificates and to count the votes without witnesses. Members of the city council finally sought an injunction to restrain the taking of the plebiscite until the validity of the certificates issued by the clerk could be determined. But the judge refused it. He said: "I am not satisfied as to my powers to grant an injunction under all the circumstances. If I were completely satisfied I would restrain the use of these certificates. My own views are that no fair expression of public opinion can be obtained under the election to be held to-morrow under all the conditions as they now exist, both as to the time given for issuing the certificates and owing to the doubt existing in the public mind as to the legality of the certificates issued. The vote is to ascertain the feelings of the people regarding their surrender of the charter; and if the Commissioner is convinced that proclamation should not be issued revoking the charter I am convinced that in the exercise of reasonable discretion he will not issue it. The responsibility rests with him."

The vote, however, was taken, and the governance of the city passed again under the direct control of the Commissioner. Shortly after this an election was held for the House of Commons. The Commissioner ran, but was defeated.

The people's desire for a wholly elective Yukon Council has not yet been granted. The Commissioner in the chair still holds the balance of power between the five appointed and the five elected members, and advises with the Department of the Interior as to the policy of his administration.

More or less political unrest may be expected in the Yukon. until a wholly elective Council is granted; for the struggles of this youngest territory are but the repetition of the struggles of

Ontario, Quebec, and the North-West for fully responsible government.[1]

[1] A census of the population made in 1901 shewed that there were 27,219 people in the Yukon. There are now probably not more than 8,000. The population is one of the most cosmopolitan imaginable. To these gold-fields rushed the miners of Australia, New Zealand, British Columbia, South Africa and California; capitalists from London, Paris, San Francisco, New York, Chicago, Boston, Montreal; gold-seekers from every country in Europe, every state in the United States, and every province of Canada. Approximately the gold output has been as follows:—

1897	$2,500,000
1898	10,000,000
1899	16 000,000
1900	22,250,000
1901	10,500,000
1902	12,250,000
1903	10,500,000
1904	8,350,000
1905	7,160,000
1906	5,180,000

The prospector is the basis of a progressive mining camp, and as yet only a fragment of the Yukon has been prospected. Unfortunately restrictive measures in the past (need of a prospector's license, proof of title, etc., etc.) have driven him into Alaska where the gold output has risen in proportion as the Yukon's has fallen. It is estimated that there are now in Alaska fifty prospectors to one gold seeker in the Yukon; a few years ago the reverse was the case.

LOCAL GOVERNMENT IN BRITISH COLUMBIA

BY

S. MORLEY WICKETT, Ph.D.

SOMETIME LECTURER IN POLITICAL ECONOMY IN

THE UNIVERSITY OF TORONTO

LOCAL GOVERNMENT IN BRITISH COLUMBIA

The trading posts of the Hudson's Bay Company were the cradle of British Columbia. It was the Hudson's Bay Company that successfully withstood the territorial ambitions of Russia to stretch Alaska southward; just as it was the same Company that was largely instrumental in preventing the United States from pushing its coast line northward to Alaska. The coast boundary of what was afterwards British Columbia on the north was finally fixed at 54° 40′ by the Anglo-Russian treaty of 1824, and the southern boundary at 49° by the Oregon treaty of 1846.

A few dates will mark the steps in the organization of the province. In 1821, when the Hudson's Bay Company had absorbed its greatest trading rival on the Pacific coast, the Imperial Government placed the territory from the Rockies to the coast in the hands of the Company as then enlarged. The lease ran for 21 years (to 1842), and was afterwards extended a further 17 years (to 1859). The famous gold rush to California of 1849 directed further attention to the locality, and in that year Vancouver Island was included in the lease for optional periods of 5 or 10 years. Nine years later the first stampede occurred to the placer gold diggings of British Columbia, in which, it is estimated, between twenty and thirty thousand took part. Accordingly, when the Hudson's Bay Company's lease expired in 1859, the island and the mainland were made a single Crown colony with Victoria (incorporated as a town in 1862 and as a city in 1867) as its capital; and in 1871, on condition of a transcontinental railway being built to unite it with the east, it became one of the provinces in the Canadian confederation.

The province has a large area, with magnificent natural resources, but as yet a sparse population. Its area is 372,630 square miles and its population in 1901 was 178,657, made up of 120,226 whites, 19,482 Chinese and Japanese, and 28,949 Indians and half-breeds. One-fifth of the white population are Canadians by birth, over half of these coming from Ontario. Thirteen per cent. of the whites are Americans by birth, most of them being miners. Apart from the Indians, one-third of the

population live in the four cities, Vancouver, Victoria, New Westminster, and Nanaimo, the rest being divided amongst other forty-eight municipalities. By the end of 1874 five municipalities had been incorporated; four more were incorporated in the eighties, twenty-five in the nineties, and eighteen since the turn of the century. Down to 1893 the population at the placer diggings came and went, but stability has now been given it by deep mining, railways, lumbering, and fruit-growing.

Although the municipalities are small in number, the provisions for local administration are very complete and closely resemble those of the older provinces. At the same time municipal objects figure more largely in the provincial budget than they do, for example, in Ontario. It means that municipal development has not proceeded so far as in the eastern provinces. This was one of the points recently urged with success by the Prime Minister in asking for an extra subsidy to British Columbia over and above whatever *per capita* grant was made to the provinces generally. The chief municipal measures will be found in the following Acts with their amendments:—the Municipal Ordinance Act of 1886 to incorporate the city of Vancouver, and Acts in the same year incorporating its electric light, water works, gas, and street railway companies; the Highway Traffic Regulation Act of 1888; the Legislative Library and Bureau of Statistics Act of 1894; the Villages Fire Protection Act of 1897 (for unincorporated towns and villages); the Municipal Elections Act of 1897; the Health Act of 1897; the Municipal Clauses Act of 1896, consolidated and amended in 1906; the Counties Definition Act; an Act to assess, levy, and collect taxes on property and income, 1903; an Act respecting sanitary and drainage companies, 1904; the Public Schools Act, 1905; the Liquor License Act.

Under Company rule administration was in the hands of the Company's governor and his council of factors. When British Columbia became a Crown colony the governor had wide discretionary powers. For example, the Borough Ordinance of 1865 empowered him to grant municipal institutions if "*in his opinion* a sufficient proportion of the residents in any town or place in the Colony" so petitioned. The powers allowed to a local council were to be enumerated in detail, a limit was to be

placed on tax rate and debt and the governor might repeal or alter any municipal by-law. It is interesting to note that the Ordinance of 1867 incorporating Victoria as a city provides for local improvements on petitions representing seven-tenths of the value of lots abutting, and that by-laws passed in answer to such petitions were not subject to disallowance by the governor.

The Consolidated Municipal Act passed in 1872, one year after British Columbia entered the confederation, gave the Lieutenant-Governor-in-council power to incorporate as a municipality any district not larger than 10 square miles, having 30 adult male inhabitants. Two-thirds of these were first to express their desire for incorporation; though nine years later the petition of a bare majority was enough. Vote by ballot came in 1874. Under the combined influences of local needs and the example of the older provinces, particularly Ontario, amendments and additions have been made to the municipal legislation from year to year, until to-day the system of local government closely resembles that of Ontario. Without attempting to trace the changes in detail, mention may be made of some of the more important provisions of the Municipal Clauses Act of 1906, an Act corresponding in some respects to the general Municipal Act of Ontario.

The Act covers 155 pages and provides for the municipal government of all municipalities not governed by a special Act, including Vancouver and New Westminster in so far as it is not repugnant to their incorporating and amending Acts. The Act bears witness to the tendency throughout Canada towards a single municipal Act for each province. Cities are administered by mayor and aldermen, townships or districts by reeve and councillors. The mayor is given high responsibilities. He is empowered to appoint the standing committees, and may return to the council for reconsideration, or veto once any measure passed by the council. The number of aldermen and councillors is usually small, from 5 to 10 in the case of cities, and 4 to 10 in the case of rural districts. The indemnities payable are not to exceed $2,000 to a mayor, $400 to an alderman, and $100 to a reeve or councillor. Since 1903 much wider scope has been given to the principle of the referendum, as may be said in fact of all Canadian provinces. It is interesting to note that the

directors of an incorporated company may appoint a representative to vote at municipal elections.[1] In cities if any person finds his name improperly omitted from the voters' list he may have it entered by the police magistrate or by a county or Supreme Court judge so instructing the municipal clerk. In district municipalities the local council revises the lists on the Saturday preceding an election. Nominations take place on the 2nd of January and elections on the Thursday following. Every municipality is divided into wards according to assessment. If in any one ward the proportion of population differs from that of another by more than 40 per cent., any member of the council can have a redivision of wards; or if the ratepayers representing over half the assessment so petition, the council may abolish wards altogether.

Some interesting differences from Ontario one notices in connection with the administration of liquor licenses and police. In 1876 the Ontario system was introduced of removing the control of liquor licenses and police appointments from the hands of the aldermen. Licenses were granted by a board made up of the mayor (or warden), the police magistrate, and a resident justice of the peace; police appointments were made by a board consisting of the Provincial Secretary, the mayor (or warden), and a local justice of the peace. Twenty years later (1896), however, the council resumed control. In each case the board now consists of the mayor (or warden) and two appointees of the Lieutenant-Governor-in-council, one of whom must be a member of the municipal council.

Assessment and Revenue

Ordinary municipal revenue is drawn from taxes on realty and improvements, statute labour, trade licenses, fines and fees, and local improvement rates. Local taxes on personalty and on income are not allowed. British Columbia alone of Canadian provinces makes such a restriction. As in the west generally, the improvements are not to be assessed for more than 50 per cent. of their value, and at the discretion of the council may be exempted altogether. Specific licenses form an important item;

[1] Municipal Amendment Act, 1898. This has been copied in the Edmonton Act and is being petitioned for in Ontario.

bankers, traders, wholesale as well as retail, etc., pay specified amounts in the form of trade licenses. As regards local improvements, if the city council by a two-thirds vote decide to bear one-half the cost, local improvements may be undertaken without a petition of the ratepayers directly concerned, subject to ratification by the ratepayers. In this way a measure of elasticity is given to arrangements between the city and local property owners.

In the attempt to make municipal book-keeping as specific as possible the council is empowered to levy special rates up to one mill for board of health and hospital purposes, and up to 15 mills on the dollar for school purposes (though for the latter purpose the council may increase the appropriation). The realty tax is not to exceed 15 mills over and above the rates levied for board of health and hospitals, schools, and interest and sinking funds. The assessment may be made every second year by the amendment of the previous year's roll. The council, or a sub-committee, acts as a court of revision and equalization, with right of appeal to a judge of the Supreme Court or to a County Court judge. Whatever portions of the province are not included in municipal boundaries are assessed and taxed under a separate assessment Act (the Act of 1903 and amendments). All its real property, wild land, personalty and income taxes are collected by the government and form part of the consolidated revenue of the province.

Debts and Debentures

The council's powers are curtailed by being enumerated at length, and by the prohibition to contract liabilities beyond the revenue of the current year. Very detailed provisions are also laid down governing the creation and regulation of debt, and for securing ample sinking funds. No debt may run for more than 50 years, and the total indebtedness must not exceed 20 per cent. of the assessed value of land and improvements. Money by-laws in the city require a three-fifths majority, and in a rural municipality a majority vote. In the case of municipal ownership the council is free to borrow upon the security of the revenue from any civic industry without a general vote of the ratepayers up to the unencumbered value of

such revenue capitalized at 4 per cent., in which event the earnings thus pledged must be withdrawn from the annual municipal revenue.

Transfers of debentures are facilitated by debentures being payable to bearer when endorsed in blank. Their validity is well secured. Any insufficiency of form or otherwise of debenture by-laws cannot be advanced if the electors have assented to the by-law and no successful action to quash has been made within the time limited by the Municipal Act, or if interest for one year or more has fallen due and been paid. This provision is reproduced in the Edmonton and Regina charters.

The special Acts relating to Victoria and one or two other places call for but slight reference. Since the incorporation of Victoria as a town in 1862 and the Victoria municipal ordinances of 1867 a much wider measure of freedom has been given to the municipal council. In fact, as early as 1873 the practice was begun of applying selected clauses of the general municipal Act to places for which special Acts had been passed.

Since 1893 no summary of municipal revenues and expenditures has been published. While rural municipalities *must*, cities (curiously enough) *may*, publish a statement of their finances. But the Provincial Secretary may call for what information he desires from any municipal official; and in case he finds evidence of imperfect auditing the Lieutenant-Governor-in-council may provide for fresh auditing at local expense. Certain improvements in the Bureau of Statistics Act are at present under consideration. Until the municipalities furnish better statistics a complete picture of local conditions is impossible—a remark which will hold for every province in Canada.

LOCAL GOVERNMENT IN THE MARITIME PROVINCES

BY

WALTER C. MURRAY, PH.D.

PROFESSOR OF PHILOSOPHY, DALHOUSIE UNIVERSITY, HALIFAX

LOCAL GOVERNMENT IN THE MARITIME PROVINCES

Out of the territory east of the Penobscot and south of the St. Lawrence were carved the three Maritime Provinces of Nova Scotia, New Brunswick and Prince Edward Island. The French called the district Acadie, and the Scottish King of England, in his grant to Sir William Alexander in 1621, Nova Scotia. The Isle of St. Jean (now Prince Edward Island) was granted a separate government in 1769, but was not renamed until 1799 after the visit of Prince Edward. The Loyalists on the river St. John, exasperated by delays in the issue of land patents and by apparent neglect, demanded and got separation from Nova Scotia in 1784 and in the name of the new province the House of Brunswick was honoured.[1] In 1784 the island of Cape Breton was granted a separate government, but was reannexed to Nova Scotia in 1820.

To-day these provinces contain less than 1,000,000 people, about one-fourth of whom live in "cities" and "towns." Nova Scotia has two cities, thirty-two incorporated towns and twenty rural municipalities; New Brunswick three cities, about twenty incorporated towns, and fifteen counties; and Prince Edward Island, one city and one town. The largest "cities," Halifax and St. John, have each a population of less than 50,000. The following table, compiled from the census returns, shows that the percentage living in towns and cities is smaller than in Ontario or Quebec:

Total and Urban Population[2]

	Total.		Urban.		Percentage Urban.	
	1891	1901	1891	1901	1891	1901
P. E. Island.....	109,078	103,259	14,285	14,955	13.	14.4
New Brunswick..	321,263	331,120	48,901	77,285	15.2 (19.9)	23.3 (20.1)
Nova Scotia	450,396	459,574	76,993	129,383	17.1	28.1 (24.)
Quebec.....	1,488,535	1,648,898	499,715	656,231	33.5	39.8
Ontario	2,114,321	2,182,947	818,998	935,978	38.7	42.7

[1] The name of New Ireland was proposed at different times for each of these new provinces. The Legislature of Prince Edward in 1780 adopted the name, but the Sovereign disapproved. Later it was proposed for New Brunswick (N.B. Historical Collections No. 6, p. 441), but again prejudice prevailed over the passion for symmetry.

[2] In the census of 1891, the population of certain towns in N.B. and N.S. was returned as part of their parishes or districts and therefore as rural. For purposes of

The political and municipal history of these provinces naturally synchronize. In their political history the outstanding events are (1) the settlement by the French, (2) the struggle between the French and English from the capture of Port Royal in 1710 to the second capture of Louisbourg in 1758, (3) the struggle for responsible government, and (4) confederation.

Under the French, feudal ideas dominated local administration. During the uncertain tenure of the British from 1710 to 1758 French deputies and English justices of the peace mediated between the governors and the governed. Wolfe's victories were followed by the authoritative administration of the justices of the peace in general sessions. Though of the people, these justices were not chosen by the people. St. John secured the right to govern itself through its chosen representatives as early as 1785. But no other community secured similar rights until Howe had won his famous victory over the Halifax Court of Sessions in 1835. A series of Acts of incorporation followed, beginning with Halifax, N.S., in 1841, Fredericton, N.B., in 1848, and Charlottetown, P.E.I., in 1855, culminating in the compulsory incorporation of the municipalities of New Brunswick in 1877 and of Nova Scotia in 1879.

The Settlers

To the character and traditions of the early settlers must be traced the nature of the struggle for self-government and the character of the institutions. At the outset physical features naturally determine the localities of settlement. The sheltered slip between the mainland and the peninsula offered the best haven. Here the French entered and settled at Port Royal and on the St. Croix. Later they spread to Cape Breton fortifying Louisbourg. Along the shores, in the bays and up the creeks

comparison the population of these towns has been deducted from the returns for 1901. The rapid growth in N.S. is due largely to the development in Sydney, and in the mining centres of Cape Breton and Pictou. It is possible that the towns of Portland and Carleton, N.B., now part of St. John City, were in 1891 included in the return for the parish and therefore the rural population. There seems to be no other explanation of the increase of over 16,500 in the urban population of St. John County while the total increase was but 2,185. The population of these towns should have been returned as urban in 1891. With this correction the percentage for 1891 becomes 19.9 for N.B. Making the corrections mentioned for both provinces the percentages for the three maritime provinces combined become 17.6 for 1891 and 21.5 for 1901—an increase of 3.9, as compared with 4 for Ontario, 6.3 for Quebec, or 6.9 for Nova Scotia.

and rivers of the eastern coast of these provinces the tide of population moved, at first impelled by the love of adventure and the prospects of hunting, later by political necessities.

The second inflow of settlers came from New England in search of cod and commerce. Convenient stations they found in the harbours of Chebucto and Canso and in those of the Bay of Fundy. Later on, the arrival of Cornwallis and the prospects of trade attracted large numbers to Halifax. And in 1759 the proclamation of Governor Lawrence brought from Massachusetts and Rhode Island an excellent band of settlers to take up the fertile lands from which the Acadians had been driven.

The fear of French aggression impelled New England to attack and capture Louisbourg in 1745. When Britain returned it to France in 1748, there was but one thing to do—to build a stronger fortress between the French in Cape Breton and the people of New England. Accordingly Lord Cornwallis was sent out to Nova Scotia to establish a fortress and a colony. In 1749 he landed in Halifax with a following of 1,176 settlers and their families. Here he built fortifications and from here he ruled the province.

From the first it was recognized that a garrison without a colony could not hold the French in check. Inducements were accordingly offered to immigrants from England, Germany, Scotland and New England. The colonists, particularly those from New England, soon clashed with the garrison. When political necessities made the colonist almost indispensable, as was the case after the expulsion of the Acadians, liberal promises of land and of self-government were made. But with the coming of security from the enemy, the merchants and farmers found the rule of the Governor-in-Council at Halifax irksome.

The relation of Halifax to the province, it may be remarked, has always been peculiar. At the first it was a garrison in a hostile colony. Later when the New Englanders began to settle in the west and the Scotsmen in the east, Halifax remained a military station and a trading-post. In war times its garrison made it a safe harbour for captured vessels and a profitable place for the sale of supplies. In times of peace, apart from fishing, trade languished. Before the opening of the railways the position of Halifax tended to isolate it from the rest of the province.

Situated on a bay about the middle of the Atlantic seaboard; remote from the old capital, Annapolis, in the west, and from the fishing station at Canso in the east; separated from the fertile valleys to the north by a rough ridge of granite boulders and a surprising number of small lakes and ponds, Halifax was forced to look across the ocean for its trade and its people. The conservatism of the old world settled upon its military government and long resisted the reforms of the new. The struggle for self-government was more prolonged and bitter, and the victory more fragmentary in Halifax than elsewhere. St. John is a striking contrast. Situated at the mouth of a magnificent river, which drains three-fifths of the province and with its broad and deep tributaries provides an unrivalled waterway through the length and much of the breadth of the country, St. John could not fail to grow with the prosperity of the province and through its commercial interests keep in the closest touch with its agricultural and industrial life. Although Fredericton was the political capital, St. John from the first dominated the province, and its reforms became those of the province.

The American Revolution profoundly affected Nova Scotia. The struggle between the ruling and military element from old England on the one hand and the commercial and colonizing element from New England on the other had resulted in the grant of a legislative assembly and some minor reforms. The reforming party, however, suffered severely when the Revolution broke out by the departure from Nova Scotia of several of the most ardent friends of reform and by the suspicion of disloyalty which fastened upon those who remained. At the close of the war the arrival of the Loyalists immediately brought about the division of Nova Scotia into two provinces and local government for the city of St. John; but in the end it strengthened the conservative forces already at work.

The Scottish immigrants who came out to New Brunswick in timber ships between 1783 and 1812 to the centres of the lumber industry on the Miramichi, the Restigouche, and the Richibucto on the east coast, and the St. John and St. Croix rivers on the southern coast, found an established system of government which they accepted and with which they in general co-operated. The inrush of Irish immigrants between 1812 and 1850 spread prin-

cipally to the towns and more populous parts.[1] Ulstermen settled in central Nova Scotia, Scotsmen in the eastern district and Cape Breton, while Yorkshiremen took up the fertile lands on both sides of the isthmus of Chignecto. The first were usually on the side of reform and so were the lowland Scots. The others were of a more conservative turn.

Ideas

Feudal ideas imported from France played little part in the municipal life of Nova Scotia. The compromise of deputies for the French and justices of the peace for the English during the period of disputed rule seems to have left no perceptible trace in the forms of local government. The formative ideas were those brought over by Cornwallis and those introduced by the New Englanders, and, in the case of New Brunswick, by the Loyalists. Those of Cornwallis and the Loyalists had a common origin. The practices of the Loyalists had but suffered a sea-change. They grew out of the adaptation of English ideas and practices to the problems of government in the southern colonies of America, Virginia and New York. As for the New Englanders, they advocated the principles of the chartered government of Massachusetts Bay.[2] In each of the types—the Virginian and Massachusetts—the powers granted to the governing body of the colony came direct from the Crown and not from the Parliament at Westminster; and in each case these powers were granted to a council or company which had the right to choose its subordinate officers.

The fortunes of the two companies, however, were different. The Massachusetts Company migrated to the new land. The election of the assistants to the Governor by the freemen of the company became the election of representatives for the government of the community. The interests of company and colony merged. The Virginian Council ruled from London through

[1] See Ganong's *Origin of Settlements in New Brunswick* (Royal Society of Canada, Transactions, 1904).

[2] The two types, the provincial or Virginian and the chartered government or Massachusetts, are sketched by Mr. J. P. Wallis in an interesting article in the Transactions of the Royal Historical Society, Vol. X.

local councils. The interests of the council and the colonists diverged; which state of affairs led the Crown to intervene and take over the council's rights. The Crown governed through a deputy or governor who called to his assistance a small number of men as councillors but theoretically did not necessarily follow their advice in all things. Together they made and administered laws and also acted as a court of justice. This was the system Cornwallis introduced into Nova Scotia. But the fishermen and the traders from Cape Cod who preceded Cornwallis, and the settlers from Massachusetts and Rhode Island who accepted Lawrence's invitation to occupy the lands vacated by the Acadians were strongly imbued with the ideas of Massachusetts. They became the advocates of self-government.

The Loyalists of New Brunswick seem to have kept before them the provincial system of New York. Their first Governor, Thomas Carleton, was the brother of Sir Guy, for a time Commander of the British forces in New York; and their first Provincial Secretary, Rev. Jonathan Odell, was a New Yorker and former private secretary of Sir Guy. The fidelity with which New York was imitated is seen in the resemblance between the city charters of New York and St. John, and between the charters of the College of New York and the College of New Brunswick. In a letter to the Secretary of State Governor Carleton makes special reference to New York.[1] The prominence of New Englanders in Nova Scotia and the predominance of the Loyalists in New Brunswick will perhaps account for certain differences in the two provinces.

The Loyalists landed at Parrtown in 1783; New Brunswick was separated from Nova Scotia in 1784; St. John was granted a charter in 1785; and a representative Assembly was summoned in 1786 to be elected on practically a manhood suffrage. Cornwallis landed at Halifax in 1749. With great reluctance Lawrence summoned an Assembly in 1758, and Halifax, though petitioning in 1765 and 1790, was denied a charter until 1841. Apparently New Brunswick was dominated by the most democratic ideas and Nova Scotia by the reverse; and yet Governor Carleton claimed that "New Brunswick had improved upon the constitution of Nova Scotia where everything originated, accord-

[1] Can. Archives, 1895, N.B. State Papers, p. 4.

ing to a custom of New England, with the Assembly. But here, where a great proportion of the people have emigrated from New York and the provinces to the southward, it was thought most prudent to take an early advantage of their better habits and by strengthening the executive powers of the Government discountenance its leaning so much on the popular part of the Constitution."[1]

It is possible that Governor Carleton thought that the Loyalists could be trusted to govern themselves, and since they outnumbered all others ten to one, there was little danger of their liberty becoming license. He accordingly granted a charter to St. John but reserved to the Crown the right of appointing the chief executive officers, the mayor, sheriff, recorder and clerk. "He was," however, "rapped over the knuckles" for it by the Secretary of State.

Things were different in Nova Scotia. The ruling class was in a minority. Governor Lawrence wrote of the members elected to the first Assembly in 1758 that "he hopes he shall not find in any of the representatives a disposition to embarrass or obstruct his Majesty's service or to dispute the Royal prerogative," though "too many of those chosen are such as have not been the most remarkable for promoting unity or obedience to H. M. government here, or indeed that have the most natural attachments to the provinces."[2] Yet in Nova Scotia greater opportunity was given to the people to express their opinions through the grand juries. The township and county officials were all appointed by the sessions from the nominees of the grand juries. The grand juries could by presentments censure public officials and ask for public works. In certain cases the justices of the sessions could not act except upon the presentment of the grand jury. Further town meetings were regularly held until 1879, though for a time after 1770, when suspicion was rife, they were suppressed.[3] These and similar provisions are not found in New Brunswick. In only two Acts (and those were in the first ten years) was the grand jury required to make a presentment before the Court could act. One had regard to the altering of a road, the other to the preven-

[1] N.B. Hist. Collections, No. 6, p. 450.
[2] Murdoch, *History of Nova Scotia*, II. 353.
[3] Ibid. II. 493.

tion of thistles. The privilege of nominating officials seems not to have been enjoyed by the grand juries of New Brunswick.

French and English

Feudalism in Acadia, as in old Canada, was a mild copy of that of old France. The Governor was all-powerful and the seigniors were feeble and few. Governor Philipps, writing to the Duke of Newcastle in 1730, said, "Here are three or four insignificant families who pretend to the right of seigniories, that extend almost over all the inhabited parts of the Country."[1] In 1703 the King of France confirmed grants of seigniories at Cape Sable, Port Royal and Mines.[2] Mention is also made of seigniories at Cobequid and Chignecto. The rights of the seigniors in Nova Scotia became little more than claims for rents which, under English rule, were transferred to the Crown.

From the capture of Port Royal in 1710 the mainland of Nova Scotia was subject to the English. Protests and resistance on the part of the French, however, made government extremely difficult and finally led to the expulsion of the Acadians. Finally the second capture of Louisbourg in 1758 left the English the undisputed masters of the peninsula and the island. Prior to the founding of Halifax in 1749 there were two British garrisons—one to overawe the Acadians around Annapolis and the other at Canso to protect the New England fishermen. The seat of the government was at Annapolis, near the French settlements at old Port Royal (now Annapolis), Cobequid and Chignecto. The Governor's task was by no means an easy one. The willingness of the Acadians to comply with his demands varied inversely with their distance from the cannon of the fort, and the collection of rents and the settlement of disputes about land were the causes of perennial trouble.

The French were governed through elected deputies. Each community was required once a year, early in October, to select a number of deputies from the "ancientest and most considerable in lands and possessions." The community about Annapolis was required to select twelve, the other communities at least four

[1] Murdoch, *op. cit.*, Vol. I., p. 462.

[2] N.S. Archives, Vol. II. (Edited by MacMechan).

or five each. If the business on hand was very important a large number might be demanded. The Governor might refuse to accept the deputies, if they were not of the oldest and richest in the community.[1] After receiving the Governor's instructions the deputies were required both to publish them and to assist in carrying them out. Mascarene summed up their duties as follows:

1. Deputies having fixed times for meeting and consultation should act together in the execution of the orders, etc., of the Government in the interests of justice and of the good of the community.

2. They should "in their meetings make joint reply to the letters of the Government addressed to them in common and propose measures for the common good."

3. They should watch and keep in hand restless spirits who could turn the *habitans* from their duty and lead them contrary to their oath of allegiance. They were expected to restrain the Indians.

4. They were to enforce the regulations for keeping up the fences and to prevent the trespass of unruly cattle.

5. They were to concert measures for the improvement and upkeep of bridges and highways. They were to assign to each *habitant* what according to custom he must contribute in material, labour, carriage or payment.

6. They were to keep an account of the mills, those erected by the seigniors and those erected "without leave since the King has been in possession of the seigniory," and the dues that should be paid so that "the King may get his rights."

7. They were to arbitrate in land disputes, but appeal to the Governor-in-Council was permitted. They were to redress wrong and recover stolen property.[2]

In short the deputies were practically mediators, with little real power but great opportunity to facilitate or clog the work of administration.

In only one instance is there evidence of the appointment of an Acadian to be a justice of the peace.[3] Prudent Robicheau was the honoured name. A Prudent Robicheau, once before, had been

[1] N.S. Archives II. 89, 66, 74.
[2] Ibid. II. 241 *et passim*.
[3] Ibid. 172

rejected by the Governor as a deputy because of lack either of ancientness or possessions.[1]

The independent fishermen of Canso were not disposed to brook much interference from the Governor. Their local affairs were managed by justices of the peace (and it is worth noting) "with a committee of the people of Canso." These justices seem at least to have been acceptable to the people. On one occasion the Governor sent three commissions for justices of the peace in blank, which the other justices and probably the committee were to fill in.[2] On another occasion there was a vigorous protest against Captain Aldridge, who seems to have been anxious to introduce something not far remote from military rule.[3] The Governor reproved him.

The system of deputies (or rather hostages) for the French and justices of the peace for the English was a rather happy compromise. It was lacking in power to coerce, but it provided good machinery for informing the people of the Governor's instructions and the Governor of the people's wants.

Government by Courts of Sessions

In 1749 Governor Cornwallis in accordance with his instructions erected three courts of justice. "The first was a Court of General Sessions similar in its nature and conformable in its practice to the Courts of the same name in England." "The second was a County Court having jurisdiction over the whole province (then a single county) and held by those persons who were in the Commission of the Peace at Halifax."[4] "The third was a General Court. This was a Court of Assize and general jail delivery in which the Governor and Council, for the time being, sat as judges."[5] In 1754 a Supreme Court with a chief justice specially appointed for judicial work took the place of the General Court.

These three courts were primarily courts of law, and yet one,

[1] N.S Archives II. 59.

[2] Ibid. 121.

[3] Ibid. 89.

[4] In 1752 the County Court was abolished and Courts of Common Pleas (commonly called "The Inferior Courts") were erected in its place. These Courts were transformed in 1824 by the appointment of competent barristers as first justices.

[5] Haliburton, *Nova Scotia*, I. 163, 164.

the Court of Sessions, discharged important administrative functions, and another, the highest, was primarily not a court of law but an administrative body. To understand the Court of Sessions and its diverse duties one should turn to its history in England.

Unusual as is to-day the merging of judicial and administrative functions, it was not novel to Nova Scotians one hundred and fifty years ago. When Halifax was founded, the Governor-in-Council was a legislative, administrative and judicial body in one. Although it was relieved of its judicial functions in 1754 the chief justice still remained a member of the Council, became a governor, and exercised administrative powers until driven out of the Council in 1838 by Howe. The Council claimed the sole right to legislate until the chief justice questioned the legality of its Acts and caused the Secretary of State to direct the Governor to summon an Assembly. Still the Council continued to discharge executive and legislative duties until separation was forced in 1838. And it was not until 1848 that Howe completed his great task and made the Executive Council dependent upon the will of the majority of the Assembly.

In the courts of general sessions, it may be explained, the sheriff as appointee of the Crown was the executive officer; the justices were the guardians of the peace, also appointed by the Crown; and the grand jury was the people speaking through a select few. From the earliest times these courts were administrative as well as judicial bodies. Obviously the transition is easy from inquiries into how the King's peace was observed to inquiries as to measures to secure its better observance, e.g., the establishment of court-houses, jails, etc., bridges for the improvement of the King's highway and the like.

In 1749 Cornwallis appointed four justices of the peace for Halifax. In addition to these there were those who by virtue of their office were conservators of the peace. At one time the captains of the ships in the harbour were justices of the peace for Halifax. Ordinarily these justices were appointed by special mandate of the Governor. According to English practice they must be residents of the county. Their number seems to have been unlimited, and they held office during the pleasure of the Crown. In the days of Howe's battles the larger counties had

forty or fifty and when the Municipalities Bill became law some counties were credited with between one and two hundred. The general sessions of the peace were usually not well attended except by the few who took an active interest, but on occasions when some matter of widespread interest, such as the granting of liquor licenses or some questions of political moment were up, the attendance was large and the meetings frequently tumultuous.

The grand juries were composed of residents of at least three months' standing having freehold in the county of the clear yearly value of £10 or personalty of £100. The sheriff was required each year to prepare a list of those qualified to serve. Their names were to be written on similar pieces of paper and put in a box. At a stated time the names of those to be summoned to serve were to be drawn from the box. This method prevented jury-packing, and if it did not secure for the people the spokesmen whom they might have chosen it prevented the sheriff from stopping the questions of the people by summoning subservient tools.

The sheriff was appointed by the Crown each year. Previous to 1778 there was one provost marshal for the province of Nova Scotia. Thereafter a sheriff was appointed for each county with the usual powers of sheriffs in England. The chief justice or the presiding justice selected three names, one of which was the retiring sheriff (unless a majority of the justices of the peace protested) and the Governor-in-Council must select one of these as sheriff for the year.[1] In New Brunswick the provost marshal disappeared about 1790; and the appointment of sheriffs does not seem to have been hedged about with restrictions.

Local Divisions

There is considerable diversity in the three provinces with respect to municipal divisions. In all three the county divisions are the most important. New Brunswick was divided into counties, and the counties were subdivided into parishes, first by letters patent and later by Act of Parliament. In Nova Scotia the townships and settlements were the first to appear;

[1] N.S. Laws, 1795.

and later out of or about these the counties were constructed. Nova Scotia also recognized other units such as "Divisions" and "Districts." Prince Edward Island was divided into "Counties," "Parishes," "Lots," and three towns with royalties and commons attached.[1]

Nova Scotia.—The "Division" in Nova Scotia was merely a circuit for the Court of Common Pleas reconstructed in 1824. The province, excluding Halifax and Cape Breton, was divided into three divisions.

In 1749 there was but one *county*. When the question of representation in the Assembly came up, the township as well as the county was considered worthy of representation.[2] In 1833 Murdoch wrote: "Some of the counties are divided into *Districts* to facilitate the local business of the county, giving each district a set of public officers nearly equivalent to those of a separate county," e.g., a court of general sessions of the peace.[3] "In Halifax county there are three districts—Halifax proper, Colchester, Pictou, each of which has every arrangement for the administration of justice, the registry of deeds, etc., as if it were a separate county wanting only the name and a county representative in the Assembly."[4] "Each district," says Haliburton, "is or should be furnished with a court house, but the jail belongs to the county. The sheriff's authority is commensurate with the county and the commissions of the peace extend throughout the same. The localities of the juries both in real and personal have also a reference to the county; and the election of representatives is in no way affected by this local arrangement of districts."[5]

[1] The term "Settlement" was used with few exceptions in eastern Nova Scotia in place of "Township," the common term in the western part. The term "Electoral District" was adopted in 1847 to denote what is now called a "Polling Section." The "Electoral Division" to-day is the constituency which is represented in Parliament. For much valuable information about these and other matters, I am greatly indebted to Mr. A. A. McKay, of Halifax.

[2] In 1759 representation was granted to five counties—Halifax, Lunenburg, Annapolis, Kings and Cumberland, and to five towns or townships—Halifax, Lunenburg, Annapolis, Horton and Cumberland. Representation was granted to the counties of Queens in 1762, Sunbury 1767, Hants 1781, Shelburne 1784, Sydney 1784 (renamed Antigonish 1863), Cape Breton 1820, Yarmouth 1836, Digby 1837, Pictou 1836 and Colchester 1836.

[3] Haliburton, *op. cit.*, II. 8.

[4] Murdoch, *Epitome of N.S. Laws*, Vol. III.

[5] When Haliburton wrote, in 1829, Halifax was divided into three districts; Sydney (now Antigonish) into Sydney and Guysborough; Annapolis into Annapolis

"The settled parts of the province," wrote Murdoch in 1833, "and those where settlements are attempted have been further divided into *Townships,* some as large as the smaller counties and many more of smaller dimensions, and it is probable that this mode of division will be extended over the whole surface of the country as it is a favourite manner of allotment in North America, and it is very useful as a guide to the arrangement of the representation, the local assessment and a variety of other purposes."[1] Haliburton stated in 1829 that a "township contains no certain definite quantity of lands nor assumes any prescribed shape as in Upper Canada where it is generally understood to extend nine miles in front and twelve miles in the rear; nor is it endowed with all those various corporate powers which the townships of New England possess, beyond the election of a representative; which privilege is not enjoyed by all. The inhabitants have no other power than holding an annual meeting for the purpose of voting money for the support of their poor."[2] Governor Lawrence in his proclamation of 1758 declared that "townships are to consist of 100,000 acres." This seems to have been the usual size for those in the valley and on the Atlantic coast.[3] On the other hand, the three townships of Pictou county contain over 200,000 acres each. Governor Lawrence also declared that every township containing fifty families would be entitled to send one representative to the Assembly. At the first Assembly it was proposed to restrict the qualification to twenty-five voters, but the Home Government insisted on fifty.[4] Since Lawrence's proclamation was addressed to New Englanders it is probable that their views about townships

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and Digby; Shelburne into Shelburne and Yarmouth; Cape Breton into Northern, Southern and Western, all of which have since been converted into counties. But other districts have been made—Barrington in Shelburne (1846), Argyle in Yarmouth (1856), Clare in Digby (1847), St. Mary's in Guysborough (1840), Chester in Lunenburg (1863), and East and West Hants (1861). These districts are now separate municipalities. Their separation, due in part to distance, may also be traced to difference in the origin of the inhabitants. Argyle and Clare are French, Barrington and Shelburne represent pre-loyalists and loyalists; Chester and Lunenburg, New Englanders and Germans; Guysborough and St. Mary's, New Englanders and Scotch.

[1] Murdoch, *Epitome* I. 29.

[2] Haliburton, *Nova Scotia,* II. 98

[3] Chester, for example.

[4] Murdoch, *History,* II. 334.

were adopted.[1] In 1829 the province contained 10 counties (5 counties being subdivided into 12 districts) and 50 townships.

Murdoch's expectation that the "townships" division would extend over the whole province has not been realized. To-day they are important only as marks of land grants. The decline of the "township" began with the Electoral Act of 1847. Previous to this, simultaneous elections had been impossible because of the difficulty of polling the entire vote of a township or settlement in one day. To meet this difficulty the counties were divided into electoral districts or polling sections. Where townships existed this Act respected their boundaries in the setting off of the electoral districts. When no townships were recognized the electoral district provided a useful unit. In time the polling section became the constituency of a county councillor, and a poor division. In 1843 and 1844 two large and unwieldy townships in Pictou county were subdivided for poor purposes. In 1855 an Act provided for the incorporation of townships. No advantage was taken of its permission. When the right of sending a representative to the Assembly was taken from the townships in 1857 or 1858 the township lost the last shred of political importance. Henceforth it was but a name known to those who were interested in land titles.

New Brunswick.—Before New Brunswick was erected into a separate province the county of Sunbury and the township of Sackville were granted representation (1767) in the Assembly of Nova Scotia. The boundaries of the parishes or towns of what afterwards became the county of Westmorland were defined by the boundaries of the lands granted by Nova Scotia.

By letters patent in 1785 Governor Carleton set off the boundaries of the counties of St. John, Westmorland, Charlotte, Northumberland, Kings, Queens, York and Sunbury; and for the better administration of justice subdivided them into towns or parishes. The Legislature confirmed this division in 1786.[2]

[1] The townships rapidly increased in number. In 1757 two were recognized as entitled to send representatives to the Assembly—Halifax and Lunenburg. Two years later Annapolis, Horton, and Cumberland were included. Then followed Truro, Onslow, Cornwallis, Falmouth, Newport, Liverpool and Granville (1765), Yarmouth and Sunbury (1767), Londonderry (1770), Barrington (1774), Shelburne (1784), Amherst and Windsor (1785), Digby (1784). There were other townships which were not entitled to representation, such as New Dublin (1765), and Chester (1759).

[2] In the Consolidated Statutes of 1903 the boundaries and dates of the erection of the various counties and parishes are given.

The plan was simple. The whole province was divided into eight counties. The settled portions were Sunbury on the St. John, Westmorland west of Nova Scotia, and St. John, the landing-place of the Loyalists (1783). The new counties were set off and Sunbury was the residue. Some of the boundaries were defined with reference to townships, e.g., St. John began from Hopewell township, York from Maugerville, Queens from Burton. The counties again were divided into "towns or parishes." The term "parish" rapidly supplanted that of "township." The "township" may be traced to Massachusetts, the "parish" to New York and Virginia. In England the parish was of course originally an ecclesiastical division, the township a civil.

The blending of the ecclesiastical and the civil appears as late as 1790 in New Brunswick. Governor Carleton in a letter (dated Aug. 20th, 1790) to the Secretary of State says of the provision made for education and religion: "There are now six ministers of the Church of England, having salaries from the Society for the Propagation of the Gospel, in addition to £100 allotted to each by an annual grant of Parliament, the glebe lands still being unproductive. The province has been divided into eight counties with thirty-nine parishes, all of which, however, do not require a permanent minister at present."[1]

It is worth noting that in New Brunswick the county is subdivided, and that in Nova Scotia the county is apparently a group of townships or settlements, as Mr. McEvoy states to be the case in Ontario.[2] This difference had important consequences. It gave the township an independence in the public mind not possessed by a mere subdivision of the county (the parish). This is seen in the town meetings which were a feature of the Nova Scotia townships and electoral divisions down to 1879, although temporarily suppressed in 1770, as already remarked, through fear of revolution. This feature survived in the charters granted to such towns as Dartmouth (1873), Pictou (1873), New Glasgow (1875), which required an annual meeting of the ratepayers to receive the reports of the

[1] Can. Archives, 1905, N.B. State Papers.

[2] McEvoy, *The Ontario Township*, p. 11.

town's officials and to authorize expenditures. In 1905 again, for example, Dartmouth held a town meeting to consider the increase of water supply and other matters. There were parish or town meetings in New Brunswick, particularly in the eastern portion, but they seem to have been due partly to the Nova Scotian example and partly to the movement for responsible government which secured an Act (in 1850) giving parishes or towns the privilege of electing their officials. This privilege seems not to have been generally taken advantage of, for provision is made for appointment by the justices should there be no election; and in 1854 the consolidation of the statutes makes no mention of election.

The care of its own poor was the first, the primary and, as Haliburton said in 1829, practically the only duty of the parish or township; yet it is worth noting that the early schools in New Brunswick were parish schools and that the trustees were parish officials. The Superintendent of Education in 1904 recommended a return to the larger unit for school purposes, and suggested the parish as a suitable unit.[1]

Prince Edward Island.—The Island was divided into 67 lots, usually containing about 20,000 acres each. These were grouped into three counties and in each county a town site with royalty and common was laid out for a capital. "The intention was that the man who held a lot in the town should be allowed a lot in the royalty for pasturing purposes. The common was situated between the town and the royalty and was for pasture purposes in common."[2] The counties were subdivided into 14 districts or parishes. The "parish lines are but little recognized." "These local divisions became practically useless and are seldom mentioned now except in legal proceedings connected with old land titles."[3] With the exception of the capital city, Charlottetown, there is but one other municipality, the town of Summerside. Local affairs are thus—doubtless on account of the smallness of the island province—in the hands of the provincial Legislature and its local officials.

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[1] N.B. Education Report, 1904, p. xvi.

[2] Croskill, *Prince Edward Island*, pp. 16, 17.

[3] Bourinot, *Local Government*, p. 68.

Electoral and School Divisions

For electoral purposes county divisions are recognized. For the federal Parliament each county is entitled to one representative unless the population be small. Then if two small counties be adjacent they are combined, e.g., the Queens-Sunbury, Kings-Albert constituencies in New Brunswick, and the Queens-Shelburne in Nova Scotia. If the county is very large it is given two representatives, e.g., Halifax, N.S., St. John, N.B., and Queens, P.E.I., or the county is divided into two ridings, e.g., Cape Breton, N.S., North and South. For the provincial Assemblies in New Brunswick and Nova Scotia the county is again the unit and the number of representatives is adjusted to population. In Prince Edward Island the unit is a district of a county.

For rural municipalities in Nova Scotia the unit is the "electoral district" determined by the legislation regulating elections for the provincial Legislature. The term "electoral district," it may be remarked, began to displace "township" as early as 1854. In New Brunswick the parish is the electoral unit. In Annapolis, N.S., the term "ward" appears.[1] It is possible that this is a reminiscence of the old town or township divisions. Such names as "street" and "square" are still found attached to the names of country roads and sections in this part of the province.

The divisions for school purposes respect county lines. In New Brunswick they ignore the parish, which in early days was the unit. In Nova Scotia the unit is called a "section," in New Brunswick a "district." The term "district" in Nova Scotia is applied to the area over which the school commissioners have jurisdiction. These commissioners, once clothed with considerable powers, have been reduced to the (alas! not harmless) work of dividing and subdividing school sections. The school section in Nova Scotia or district in New Brunswick seems to have been laid out with a due regard to the walking powers of a child. Apparently two and a half miles were regarded as the utmost which a child could be expected to walk to and from school each day. Accordingly school sections or districts were usually four or five miles in length. In the sixties

[1] Calnek and Savary, *History of Annapolis*, p. 316.

and early seventies, when the tide of immigration was flowing strongly into these provinces, it was not unreasonable to expect that in time these sections would be filled with a large school population. The westward movement of population, however, has disappointed these hopes, and the results have been disastrous to the rural schools. There seems to be but the one solution of regrouping school sections, either by consolidation of school equipment and teaching power or by enlarging the administrative areas to perhaps the New Brunswick parish or Nova Scotian district, so that the burden of taxation may be reduced to a minimum and equalized.

Appointment of Local Officials

Nova Scotia.—In Nova Scotia various methods of appointing local officials have been followed at different times. Before the establishment of courts of sessions the Governor-in-Council shared the privilege with the town meeting. Upon the institution of the courts the appointment of the great majority of the officials was delegated to them, in some cases without restriction, in others subject to the nomination of the grand juries. In a few instances the grand juries appointed, subject to the ratification of the justices. Of the five methods: (1) the Governor-in-Council, (2) popular election, (3) the court of sessions, (4) the sessions upon nomination of the grand jury, (5) the grand jury subject to the ratification of the justices, the most common was the appointment by the sessions on the nomination of the grand jury. The Governor-in-Council appointed the sheriffs, coroners, justices of the peace, commissioners of sewers and dykes, gaugers (from 1761 to 1769), commissioners for schools in each county and district (from 1828).

In January, 1751, the Governor-in-Council ordered that the "town and suburbs of Halifax be divided into eight wards and the inhabitants be empowered annually to choose the following officers for managing such prudential affairs of the town as shall be committed to their care by the Governor-in-Council, viz., eight town overseers, one town clerk, sixteen constables, eight scavengers."[1] In 1763 the town meeting (which was held twice a year) chose the assessors of the poor rate. This practice was

[1] N.S. Archives (edited by Akins), I. 639.

also authorized by an Act passed in 1851. The assessors appointed the collectors of the poor rate, which, wrote Murdoch in 1833, "is the only regular fund managed by the township authorities without the intervention of the sessions and grand juries of the county."[1] From 1859 to 1878 the town meeting could choose the collectors.

In 1762 the grand juries in sessions were empowered to appoint annually cullers and surveyors of dry fish, surveyors of lumber, and surveyors of cordwood;[2] and three years later the appointment of the county treasurer, subject to certain restrictions, was placed in their hands. The usual method of appointment by the sessions required the juries to nominate. At first twice as many candidates as there were offices were to be nominated; but later (1811) the number was to be as many as the justices in sessions might direct, "as the numbers before limited by law were found insufficient."[3] Apparently the juries by nominating impossible candidates could force the justices to appoint those whom they desired.

The officials appointed by the justices on the nomination of the grand juries, as given by Murdoch[4] in 1832, with the dates of the Acts giving the power were as follows: In 1765 surveyors of lines and boundaries of townships and overseers of the poor ("both offices united in the same persons"), a town clerk, constables, surveyors of highways, fence viewers, clerks of market, poundkeepers, cullers and surveyors of fish, surveyors of lumber, sealers of leather, gaugers of casks, hogreaves (1792), measurers of grain, salt, coals, inspectors of lime and bricks, inspectors and repackers of beef (1794), surveyors and weighers of hay (1777), inspectors of flour and meal (1796), inspectors of red and smoked herrings (1798), inspectors and weighers of beef (1829), inspectors of thistles (1791), and inspectors of butter in Cumberland county (1802). The local trustees of schools were, according to the Act of 1828, appointed by the commissioners of schools who were nominees of the Governor-in-Council.

[1] Murdoch, *Epitome* I. 138.
[2] Ibid.
[3] Ibid.
[4] Ibid.

After Howe became prime minister an Act was passed in 1850 dividing Halifax into townships, and giving each township the right to elect a warden and four councillors who were to have all the powers "now exercised by the justices of the peace"; and empowering the ratepayers at the annual meeting to elect all township officers whether "now appointed by the sessions, town meetings or others as considered necessary." This Act was permissive and seems never to have been put into effect. A similar Act (1856), intended for the other counties, was put into effect in but one county, Yarmouth, and then only for three years.

The method of appointment by the justices on nomination by the grand juries continued until incorporation was made compulsory for all counties and districts in 1879.

New Brunswick.—Governor Carleton and the Assembly from the first decided to give the people, either directly or indirectly through the grand juries, as little power as possible in the appointment of local officials. In the draft of the Highways Bill submitted to the House in 1786 provision was made for the nomination of road surveyors or commissioners of the highways by the grand juries. This provision was struck out before the bill became law.[1] New Brunswick was to "improve upon the constitution of Nova Scotia."

The justices of the peace were empowered to appoint, at the first sessions of the court each year, "out of every town or parish in the said county three overseers of the poor, a clerk of the town or parish, a clerk of the market, a sealer of leather, three assessors, two or more constables, two or more fence viewers, a sufficient number of poundkeepers, cullers and surveyors of fish, surveyors of lumber and cordwood, gaugers of casks, hogreaves, surveyors and weighers of hay, surveyors and examiners of any staple commodity and (in 1805) parish school trustees.

In addition the Governor-in-Council appointed a great many officials, e.g., commissioners of sewers (1786), supervisors of great roads (1822), commissioners for the almshouse in Fredericton (1822) and Northumberland (1828), grammar school trustees (1829), firewards in Fredericton (1824), Newcastle and Chatham (1828), St. Stephen (1833), boards of health

[1] MS. Records of the First Assembly in the Legislative Library, Fredericton.

(1833), marine hospital trustees (1822), commissioners to collect dues for disabled seamen (1826), commissioners for the provincial House of Correction (1841), also for the asylum for the insane.

In 1850 the parishes were granted the privilege of electing the town or parish officials hitherto appointed by the sessions, except the treasurer, auditors, trustees of schools, overseers of fisheries, inspectors of fish, wharfingers, port warden, harbour master, pilots and firewards, who were to be appointed as before by the sessions. In the following year the same privilege was granted to parishes organized as municipalities. But failing election, appointment was to be made by the sessions or the council. When the statutes were consolidated in 1854 this privilege of election was withdrawn from the parishes. Probably little use had been made of it. It is possible that this introduction of the township idea was suggested by what Howe had done in Nova Scotia. It is well to remember that it was in 1848 that Nova Scotians gained responsible government.

Prince Edward Island.—As Bourinot remarks, "no system of local government ever existed in the counties and parishes as in other parts of America. The Legislature has been always a municipal council for the whole island."[1] In 1833 the representatives of Charlottetown in the Legislature were instructed to summon the inhabitants to vote money for local purposes and to appoint assessors and collectors. The following year the inhabitants of each school district were required to choose five trustees.

The Powers and Municipal Labours of the Sessions

Nova Scotia.—In the exercise of their administrative functions the justices of the peace appointed officials, ordered assessments and controlled expenditures, controlled certain licenses such as those for the sale of liquor, and made regulations about a variety of subjects. The list of subjects is similar to that given below for New Brunswick. In New Brunswick the justices in sessions were less restricted in the exercise of their powers by the grand juries than were their fellow justices in Nova Scotia.

[1] *Local Government*, p. 69.

In 1877 the committee appointed to revise the statutes prepared a draft summarizing the powers of the courts of sessions.[1] But apparently after the draft had been printed and submitted to the Legislature it was decided to make the Municipalities Act compulsory and to abolish the courts of session. In that draft these courts were (1) given power to appoint and define the duties of the parish officials; (2) given charge of jails, lockups, workhouses or almshouses (unless entrusted to special commissioners) and village police; (3) required to prevent vice, disorders and disorderly driving, Sabbath profanation, nuisances, noises; (4) required to regulate the sale of liquor, circuses, exhibitions; (5) required to make regulations concerning trespass by domestic animals, the marking of cattle, pounds, dog tax, destruction of mad dogs, noxious weeds, fires, bush burning, trucks, depositing of ballast, markets, measuring and inspecting such commodities as bread, salt, coal, hay, iron, lumber; (6) required to have charge of ferries, streets, public wharves, bridges, booms, timber driving, commons, marshes, school reserves, river banks. At an earlier date they had had charge of inland fishing (1799), grazing on the commons (1814), parish schools (1823), lunatics (1824), the prevention of infectious diseases (1799).

The care of the poor was a parish charge and was in the hands of overseers appointed by the sessions.

The sessions assessed upon the presentment of the grand jury of the county setting forth the sums required for (1) the expenses of criminal justice, such as the building and maintenance of county court houses, jails, stocks, pillories, pounds, conveyance and support of prisoners, salaries of clerk of the peace and jailor; (2) the support of the poor; (3) the building and repairing of bridges and other public works authorized by parliament; (4) the expenses for preventing fires. "The sessions apportion the sum presented fixing on each township and settlement the portion they think it should bear" (1765).[2] It also appointed two collectors and three assessors for each township on the nomination of the grand juries (1777). The moneys

[1] Through the courtesy of Mr. T. C. Allen, Clerk of the Pleas, I was permitted to examine a copy.

[2] Murdoch, *Epitome* I. 135.

collected were handed to the treasurer, who was chosen by the grand jury, and approved by the justices in sessions, to whom also the treasurer accounted quarterly (1813), and to whom appeals lay from the assessors.

Other sources of revenue were from rents from public buildings, fines and forfeitures, license fees from hawkers and pedlars (1782) and liquor sellers (1787). The liquor license fees were collected by a clerk of licenses appointed in Halifax by the Governor, elsewhere by the justices of the peace, who selected one of three candidates nominated by the grand jury. Three-fifths of the license fees (liquor and hawkers) in Halifax went to the commissioner of streets; two-fifths to the police department. When money was to be borrowed permission had to be received from the Legislature.

The various officers were accountable to the sessions for the moneys entrusted to them. The grand juries had the right to inspect the accounts and to make a presentment upon the administration of the justices or their officials. The way in which the latter discharged their duties in Halifax was exposed in a painful manner by Howe in 1835.[1]

New Brunswick.—The sources of revenue and the administration of it were similar to those of Nova Scotia. Apparently (though the evidence is not clear) the grand juries in the early days were not so influential in New Brunswick as in the sister province. In 1833 the justices in session were required to cause accounts of public moneys to be laid before the grand jury, and the grand jury was empowered to "make such presentment thereupon as they see fit." In 1850 stress was laid upon the recommendation of the grand jury for buildings and contingencies as a necessary condition to an assessment by the sessions. Further, the accounts of the county and parishes were to be laid before the grand jury, when the town or parish officers were to be appointed. Also at the time of the election of town or parish officers, the overseers of the poor, collectors of rates, and commissioners of highways were required to lay their accounts before the ratepayers for examination. The growing influence of the grand jury and the open examination of accounts were due to the demand for representative government.

[1] Howe, *Speeches and Letters*, I. 21 *et seq.*

It is worthy of note that to-day in Nova Scotia and New Brunswick each poor district or parish must bear the cost of the maintenance of the poor who have "settlement" within it. Every other charge, even the support of the insane poor at the provincial hospital, is a county charge. The sole exception in New Brunswick is the charge of opening up a new road.

Reform

In 1835 Joseph Howe published in the *Nova Scotian* a number of letters attacking the Halifax County Sessions, for which he was arrested on a charge of criminal libel; he was, however, finally acquitted in triumph in spite of the charge of the judge to the contrary. The repeated declarations of successive grand juries and the chorus of popular approval that greeted him seem to warrant one in believing that Howe's severe arraignment was justified. He charged[1] them with unfair assessment, mismanagement of public accounts, "miserable but costly corruptions of the Bridewell (Prison) and Poorhouse," inefficient and dilatory administration of justice, all of which were supported by quotations from reports of grand juries and of a special committee appointed by the Governor-in-Council.

In its report published shortly before Howe's trial, the grand jury stated that "but £36 of the whole assessment of the year had been collected and that from persons much less able to pay than many who stand in the list of defaulters." Howe gave examples of the effect of the failure of the sessions to collect rates in the county outside of the city and from a large number of favoured or careless ratepayers. Although the city contained 14,439 people as compared with 10,437 in the county, from 1825 to 1835 not one shilling had been received from the county outside the city. Apart from the large amount of uncollected taxes, the management of funds collected was careless and irregular. Instead of paying into the treasury, collectors of taxes were permitted to pay to other persons, who appropriated the funds to suit their own convenience, causing much hardship to civic officials and creditors. "The credit of the county is absolutely so bad that an advance of forty or fifty per cent. is required in all purchases made on account." The grand jury

[1] Howe, *Speeches and Letters*, I. 20 *et seq.*

returned the county treasurer's accounts as being incomprehensible, not so much from fault of the treasurer as from the confused manner in which public accounts were kept. Examples of the inefficiency of the police, of the unequal administration of justice and of the indifference of the magistrates were cited. Although the law required all magistrates to attend general and quarter sessions under penalty of removal from office, "from the record of five years it appeared that not more than three justices had usually attended the general sessions of the peace in Halifax, frequently but two and sometimes only one." The grand jury, which in effect was the organ of the people, Howe declared had been frustrated in its attempts to detect and remove abuses. Sometimes the magistrates refused it access to public documents and at other times ignored its recommendations. Finally the grand jury refused to assess, and thus brought matters to a head.

It should be said in fairness to other courts of sessions that there is little doubt that Halifax stood alone in its bad preeminence. Yet enough remains to show that the system had many serious defects. It was not, however, unacceptable elsewhere. For nearly thirty years a permissive Act for municipal incorporation held open a door of escape for the several counties in Nova Scotia and New Brunswick. In Nova Scotia one county only took advantage of it and that for but a brief period.

Government by Elective Councils

Nova Scotia.—Responsible government for the province logically implied self-government in the municipalities. In Nova Scotia, since 1763, the township had the right to meet and vote money for the support of the poor and to elect the assessors required to get this money. This right the townships (or settlements, as they were sometimes called) continued to enjoy until 1879.

It was natural for Howe to begin at home with his municipal reform. Halifax city had been given the right to govern itself in 1841. Halifax county, however, was still governed by the court of sessions when the victory for responsible government brought Howe into power. Whatever the cause, whether it was Howe's New England ancestry, or the prominence of the town-

ship in western Nova Scotia, or the difficulty of combining the very diverse and widely separated sections of Halifax into one county, Howe adopted the township as the unit of municipal government in the Act of 1850. This Act provided for the appointment of commissioners to divide Halifax county into townships, each township to elect a warden and four councillors, who were to assume all the powers and duties of justices of the peace for the county. But little or nothing seems to have resulted from this Act.

In 1855 there was passed an elaborate Act providing machinery for municipal government in the four counties of Yarmouth, Annapolis, Kings and Queens, the four counties in which New England influence was strongest. The following year this restriction was removed and all other counties and a number of districts, such as the French districts of Clare and Argyle, the Scottish St. Mary's and the pre-loyalist Barrington were given an opportunity, should they wish to transfer the government of the locality from the quarter session to elective councils.

In the same year another Act providing for the self-government of townships was passed. A reeve and four councillors were to be elected by the township, and the reeves in the county were to form the county council. The township councils were to exercise the power of county councils with reference to roads, the poor, prevention of vice and assessment, with the following exceptions. The expenditure of the government grants for roads, the erection of bridges, the control of liquor licenses, the regulation of ferries, wharves, markets and fairs were withheld from them. The annual town meeting was expressly provided for.

Both the County and the Township Acts were permissive and remained in force until the compulsory Act was passed in 1879. Yarmouth was the only county to apply for the privileges of the Act. But after three years' trial, in 1858, it petitioned for the old order of local government; yet Yarmouth has always been noted for its sympathy with New England ideas.

The towns were more anxious to secure the privilege of self-government, more particularly the privilege of assessing for local purposes and of borrowing money. Each town sought incorporation by a special Act. Pictou and Dartmouth in 1873,

Truro and New Glasgow in 1875, Windsor in 1878, Parrsboro in 1884, Lunenburg, Sydney and North Sydney in 1885, and Kentville in 1886 were thus incorporated. The Towns Incorporation Act, which was passed in 1888, was made applicable to all the towns then incorporated, the city of Halifax being exempt, to which is now added the city of Sydney, C.B. Since then minor amendments have been passed, but the principles of the Act remain intact.

New Brunswick.—Self-government in local affairs came earlier to New Brunswick. St. John received a charter in 1785, Fredericton in 1848, while in 1850 the town meeting was given the power of electing parish officers, and in 1852 a permissive Act for elective county councils was passed. In 1877 this permissive Act became compulsory. When Nova Scotia's compulsory Act was passed in 1879 not one county was incorporated but in New Brunswick six had already passed out of the control of the courts of sessions. In New Brunswick the earliest to become incorporated were York, in 1857, Carleton, prior to 1865, and Sunbury, prior to 1870. The Act of 1850 reserved for the magistrates the appointment of the treasurer, auditor, fishery and harbour officials; but it also required a statement of the public accounts to be laid before the grand jury when the appointments were to be made. A presentment from a grand jury was made a necessary condition of an assessment for public buildings and contingencies.

The towns were naturally more eager for incorporation. Fredericton received it in 1848, Woodstock in 1856, Portland and St. Stephen in 1871, Moncton and Milltown in 1873, Bathurst in 1885, Marysville in 1886, Campbellton in 1888. The Towns Incorporation Act was passed in 1890, and under it the younger towns have been incorporated, those previously incorporated being governed by their charters. Villages may also be incorporated for certain purposes.

Until 1896 there had been a steady movement in the province towards decentralization, towards greater local control. Since then a movement towards centralization has become very evident. In 1898 the Governor-in-Council received power to appoint not only the provincial board of health, but also the chairmen of the local boards, and further to levy local assess-

ments when these boards recommend it. This was clearly dictated by the desire to secure more efficient and prompt action when an epidemic is threatened. In 1899 the appointment of the chairmen of the revisers of electoral lists was taken from the councils and given to the Governor-in-Council. The Liquor Act of 1900 withdrew from the councils the appointment of commissioners to issue licenses and of inspectors and placed it in the hands of the Governor-in-Council. In 1905 the Highways Act required the municipalities to assess for the roads but placed the disposal of that money in the hands of the Governor-in-Council, to whom also was given the appointment of supervisors of roads. And lastly, the superintendent of education recommended a return from the small school districts to the parish as the unit. With these measures of centralization goes the growing practice of placing special duties, hitherto enjoyed by councils, in the hands of appointed commissioners, for example, the management of certain almshouses and of town and city schools.

Whatever be the cause, whether a demand for greater efficiency, or a desire for greater patronage, or a distrust of elected bodies as agencies for executive work, the fact remains that an important part of the machinery of government in local affairs appears to be passing away from the residents of the locality; at the same time one is surprised at the apathy or tacit approval which greets the change. We may purchase efficiency or patronage at too great a price. Direct popular government is indeed an educational agency that should not be valued lightly.

Municipal Organizations

Rural municipalities, towns and cities are incorporated under different Acts. The Municipalities Act applies to counties and, in the case of Nova Scotia, to districts as well, i.e., to divisions (never more than two) of a county. The Towns Incorporation Act of Nova Scotia provides for towns whether previously or subsequently incorporated: in New Brunswick the Towns Incorporation Act applies only to the towns incorporated subsequent to the passing of the Act. Each city has a special charter.

In Nova Scotia six of the eighteen counties are divided into

two districts, making altogether twenty-four rural municipalities. These are again divided into polling districts, each of which is entitled according to population to at least one representative in the council. Only in one instance has a polling district as many as three representatives. The qualifications of municipal councillors and of voters are the same as those required of members and voters for the House of Assembly, except that since 1887 the franchise has been given to unmarried women, assessed for $150 realty or $300 personalty.

The elections are held on the same day throughout the province. Councillors previously sat for one year; but since 1892 their term is three years. Like the provincial Assembly the council chooses its presiding officer (the warden) at the first session after election, grants an indemnity ($2 a day and 5 cents a mile) to its members and an additional sum ($50) to the warden. It has power to assess for enumerated purposes, chief among which are the support of the poor, prevention of disease, administration of justice, court house and jail, protection from fires, bounties for certain wild animals, ferries and markets, roads and bridges (not exceeding $1,000 unless with the approval of the Governor-in-Council). Districts within a municipality may petition for the privilege of assessing for specified purposes and be rated accordingly. Loans for current purposes are limited to $2,000 subject to the approval of the Governor-in-Council. A contingent fund of $500 is permitted. All by-laws are, however, subject to the approval of the Governor-in-Council.

The Municipal Act for New Brunswick differs but slightly from the Nova Scotia Act. Each parish of a county is entitled to two councillors. The Act provides for a one year term of office unless the council decides upon biennial elections. In St. John county the elections are triennial. The indemnity is larger in New Brunswick and the property qualifications are higher.

The powers are similar; but the approval of the Governor-in-Council is not required for by-laws. All officers are appointed by the council for one year except the clerk and treasurer, who, however, are removable by the council. In certain parishes the appointment of constables is not made in the usual way. In the parishes of Dorchester, Shediac and Moncton, of the county of

Westmorland, the French ratepayers elect three assessors, one collector and three overseers of the poor to assess and collect from the French of these parishes the poor rate and to care for the French poor.

The Towns Incorporation Act of Nova Scotia was passed in 1888, revised in 1895, and embodied in the consolidation of 1900. It requires a majority vote of the ratepayers of the town in favour of incorporation before such incorporation can be granted by the Governor-in-Council. A further condition was subsequently added. There must be at least 700 persons dwelling within an area of five hundred acres of land.

A mayor and six councillors are to be chosen at the first election by the entire town. The council has power to divide the town into wards and assign two councillors to each ward, these to be elected by the ratepayers of the ward. The mayor holds office for one year, the councillors for two years; but one-half of the council retires each year.

Both mayor and councillor must be British subjects, at least twenty-one years of age, and ratepayers, the mayor's assessment reaching at least $500 real or $1,000 personal property.

The council has power to assess for the poor, schools, streets, sewers, water, fire, the courts, police, salaries and the county fund. But before it can grant a bonus, or make a permanent loan, the sanction of the town meeting and the authority of the Legislature must be secured. A loan for school buildings need not be specially authorized by an Act of the Legislature. Exemption from taxation cannot be granted unless sanctioned by a special Act of the Legislature. And all the by-laws or ordinances passed by the town council are subject to the approval of the Governor-in-Council.

The council appoints all officials save the stipendiary magistrate, who is appointed by the Governor-in-Council. The town clerk holds office during good behaviour. The town solicitor may be dismissed by a two-thirds vote. But an official who holds office during good behaviour may appeal to a judge of the County Court or Supreme Court to call upon the mayor and town council to show cause for his dismissal or the reduction of his salary. All other officials save one are appointed for one

year. The council appoints three revisers to revise the electoral lists.

The provisions of the Towns Incorporation Act of New Brunswick differ but slightly from those of Nova Scotia. For instance, the Act expressly provided that the services of mayor and aldermen shall be honorary. This is the practice in Nova Scotia, and I believe everywhere in the Maritime Provinces except in St. John, where both mayor and aldermen receive allowances, and in Halifax, where the mayor receives $1,000 a year. The Act further requires the election of the aldermen by the entire town and not by wards, each elector having the right to vote for two aldermen in each ward. This practice has recently been adopted in the cities of St. John and Fredericton. The innovation has not proved to be the success hoped for, and many hold that the ward system gave as good or better results.

In New Brunswick the town councillors hold office for one year and consequently all retire simultaneously. In Nova Scotia the practice of administrative bodies, such as directorates, has been followed and only one-half (in Halifax city one-third) of the council retires each year.

The financial relation of the town to the municipality within which it is situated has always been a source of trouble. The relative amounts of the contributions of town and municipality towards the support of courts, court house and jail, and in some cases the support of the poor and in nearly every case the county school fund, have always been difficult to adjust. This is explained partly by the shifting of population from the country to the town and partly by the tendency in the towns to assess property up to its current market value in order to keep the rate low. Two plans of adjustment have been followed. The arbitration plan is favoured in Nova Scotia. A joint board of arbitrators appointed by town and municipality agrees upon the proportion of the expense which is to be borne by each. In New Brunswick the city and county of St. John form one municipality and the city alone is another. This plan was suggested by New York and was adopted from the first. The Towns Incorporation Act has applied the same principle to other municipalities. In St. John the mayor and fifteen aldermen selected by the city council, with eleven councillors chosen

by the parishes, constitute the county council. Elsewhere in New Brunswick the town is given representation in the county council to the extent of three or four councillors. Two of these are elected by the parish within which the town stands, in some cases by the ratepayers outside the town limits, in others apparently without such restriction; and one or two, as the case may be, are selected by the town council.

The New Brunswick Act gives any town the right to expropriate the property of the lighting or water and sewerage companies if a majority vote of the ratepayers is recorded in its favour. While municipal ownership of the water supply is practically universal and has proved an unqualified success in the cities and towns of the Maritime Provinces, only about twelve, and these are not the larger cities or towns, have undertaken the lighting of the towns. In every case the lighting plant is for electric lighting, not gas. In Fredericton the town does the municipal lighting. An examination is now being made of the water powers of Nova Scotia available for the development of electric energy. Thus far no city or town owns or operates a street railway. In Halifax the operating company gives a certain percentage (four per cent.) of the gross receipts to the city and pays taxes on its real and personal property. Three or four companies operate an intertown service, for example, between St. Stephen, Milltown and Calais; Sydney, Glace Bay and adjacent towns; North Sydney and Sydney Mines; New Glasgow and surrounding towns. In Yarmouth and Moncton street railways have been operated and abandoned.

Local Problems

Revision of electoral lists, liquor license control and assessment are responsible for most of the local municipal conflicts. As the burdens of taxation increase, the inequalities of the systems become more galling, and the demand for reform more insistent. The control of the sale of liquor has divided the community into two factions, while the revision of the electoral lists opens and keeps open the door to party politics and determines whether a road shall be ditched or a sewer laid according to the great principles of rival national policies.

Electoral Revisers.—Accordingly the revision of the electoral lists is jealously watched. The provincial lists are now used for federal elections, and are prepared by local authorities. The introduction of federal politics into municipal affairs is due partly to this, partly to the patronage placed in the hands of the councillors by the road grants, and partly to the tendency of co-workers in the federal and provincial contests to assist each other in municipal contests.

In Nova Scotia the three electoral revisers are appointed like other municipal officials. They are usually selected from the councillors for the districts concerned. The revisal section in rural municipalities consists of not less than two or more than five polling districts, as the council may determine, each polling district being usually represented by one councillor. Each town constitutes a single revisal section. The city of Halifax has a registrar of voters, who is appointed by the council, but cannot be removed except for cause.

In New Brunswick the revisal section is the parish. In 1854 the law directed that the revisers be appointed or elected like other parish officers. In 1877 the county councillors of each parish were to be the revisers. If they were but two in number, the council selected another; if more than three, the council selected three. In cities and towns the councils elected the revisers. In 1899 the provincial Government secured the right to appoint the chairman, the other two being councillors.

Sale of Intoxicating Liquors.—The sale of intoxicating liquors is prohibited or regulated by municipal ratepayers in accordance with either the Canada Temperance Act, usually called the "Scott Act," or a provincial prohibitory law (in Prince Edward Island) or a provincial license law. Compared with the federal Act the provincial prohibitory Act of Prince Edward Island is more stringent. It forbids the sale except for specified purpose and then through a regularly appointed agent. It gives greater powers with regard to searching, and it provides that any one arrested for drunkenness may be required under oath to state where he received the liquor. In Nova Scotia six counties and Halifax have adopted the provincial license law, the remainder the Dominion prohibitory law. In New Brunswick the provincial license law is in force in the

five northern or French counties and in the city of St. John, and the Dominion prohibitory law in the remainder.

The enforcement of the law, license or prohibitory, is placed in the hands of an inspector or inspectors appointed in Nova Scotia by the municipality. The appointment of an inspector or inspectors must be confirmed or vetoed by the Governor-in-Council. In New Brunswick the license inspector is appointed by the Governor-in-Council, the "Scott Act" inspector by the municipal council. In Prince Edward Island the police in towns are also inspectors under the law. Their vigilance varies, however, with the complexion of the council as reflected in the commission or committee controlling them.

The number of licenses granted is restricted in the following ways. In New Brunswick a distinction is drawn between counties or rural municipalities, incorporated towns and cities. In counties one license is permitted for each full 400 of the first 1,200 population and one for each 1,000 thereafter; in towns one license is permitted for each full 250 of the first 1,000, and one for each 500 thereafter; in the city of St. John the number is limited to 75 shop or tavern licenses and 7 hotel licenses. Since 1877 any parish in a county or any ward in a city has the right of vetoing the granting of licenses within its bounds by recording a majority vote of its ratepayers against it. In Nova Scotia the number is not limited by law, except in Halifax, but the town or the polling district in the county or in the city of Halifax must first express its willingness for the granting of a license by a petition signed by a certain proportion of the ratepayers. In the county or the incorporated town the proportion is two-thirds in favour. In Halifax three-fifths of the ratepayers of polling districts are required for a retail license, a majority for a wholesale. The licenses are granted in Nova Scotia by the council, town or county; in New Brunswick by three commissioners appointed by the Governor-in-Council. Each commissioner holds office for three years, one retiring each year. In each province stringent conditions must be complied with before a license can be granted, and in New Brunswick a commissioner may be subject to a heavy fine for the illegal granting of a license.

The license fees and fines in Nova Scotia go into the munici-

pal treasury. In New Brunswick the spoil is divided with the provincial treasury.[1]

Assessment.—General Acts govern the assessment in counties and towns in each of the three provinces and special Acts the assessment in cities. The provincial Act of Nova Scotia declares all real and personal property and income (subject to certain exemptions) liable for taxation. The assessment law of Halifax omits income. A fixed poll tax of 60 cents in the country, $2.00 in towns or $5.00 in Halifax is also exacted. Exemptions are numerous and important. Among others may be mentioned the property of widows to the value of $400, implements or tools of farmers, mechanics or fishermen to the value of $200, the produce of the farm and of the sea; income up to $400 in the country and $600 in the towns. Ships are rated at half value. Funds in provincial debentures, the income from provincial or municipal debentures, the property of railways, and other property by special Act, are exempt.

The New Brunswick provincial Act requires one-sixth of the tax to be raised by a poll tax and the remainder to be levied equally on real and personal property and income. Fredericton until 1907 enjoyed the distinction of retaining a provision whereby income is rated at full value and real and personal property at one-fifth. The exemptions granted are similar to those of Nova Scotia. Corporations are assessed on their paid-up capital less their real estate.

In Prince Edward Island the confusion of provincial and local obligations has produced a distinct type of assessment. The absence of mines, forests and important industries leaves that pastoral island without the great sources of revenue of the

[1] Some of the differences between the license laws of New Brunswick and Nova Scotia may be traced back to their early history. The provincial license control in New Brunswick runs back to the first charter of St. John when the mayor, and the mayor only (a nominee of the Government), could grant a license. The restriction of this power to the nominee of the provincial Government continued down to 1833. At the same time the number was limited to 35. In Nova Scotia from the first, fees were by law expended on roads and bridges, with the exception that in Halifax not more than two-fifths might be expended on the police. In both provinces the justices of the peace in general (not special) sessions granted the licenses in early days. In 1873, possibly earlier, the Nova Scotia law required a recommendation from two-thirds of the ratepayers of the polling district, and the concurrence of two-thirds of the grand jury before the justices could, if they so decided, issue a license. New Brunswick in 1877 transferred the veto power to the ratepayers, and in 1896 placed the licensing in charge of a board of commissioners.

sister provinces. The heavy burden of the schools is principally borne by the provincial treasury and not by the district assessment. The principal sources of revenue are the Dominion subsidy, the land, income and road taxes, license fees and succession duties.

The land tax was introduced in 1894. At first it was levied at from one to six cents per acre according to value, but in 1897 this was changed to a percentage tax of one-fifth of one per cent., or twenty cents on every $100. The value of the land includes the value of buildings, but after the first year improvements are not assessed. A rate of one and a half per cent. is levied upon income, but income due to manual labour, not exceeding $300, is exempt. The road tax is simple. A poll tax of $1.00 is levied on men between 21 and 60, and twenty-five cents for each horse over three years of age.

In the cities and towns generally there is much dissatisfaction over the system of taxation. Fredericton vigorously protested against the heavy burden placed upon income. St. John and Halifax complain of the hardships suffered by merchants and manufacturers who carry large stocks of goods. Partial relief was given in Halifax by placing merchandise at three-fourths value and by exempting by special legislation certain industries. Wharf property and shipping were granted similar relief. In St. John the heavy burdens which that ambitious city has incurred in its efforts to equip the harbour with ample docks and facilities for a large traffic have aggravated the unequal pressure of its system; and an assessment commission has just reported in favour of a change to a tax on rentals very much as in Ontario. Another commission is sitting in Fredericton. Halifax has had its full share of committees and commissions, yet more are demanded. Fredericton's preposterous income tax was neutralizing the great advantage of central position and natural beauty and was driving many away. And in both St. John and Halifax municipal taxation is unduly checking manufacturing and trading enterprise.[1]

[1] A glance at the development of assessment laws is instructive. In New Brunswick, in 1786 the assessors were directed to levy "by equal proportion" the amounts authorized for the courthouse, etc. They apportioned the taxes as "they in their discretion" thought "just and reasonable." For two or three years the "inhabitant" could pay his taxes in labour at two shillings and sixpence a day. The "discretion"

Roads

The road problem is not yet solved. In Nova Scotia railway mileage per head of population and per acre of the province is

of the assessors "without regulation or appeal produced great dissimilarity in the mode of apportioning the rates throughout the province." Accordingly in 1822 an Act was passed directing that one-half of the sum assessed be levied by a poll tax and the other in "just and equal proportion" upon the inhabitants and upon the real estate of the non-residents according to the discretion of the assessors. In 1831 only one-eighth was to be levied by a poll tax; the remainder on the "visible" property and income. In 1850, income not derived from real and personal property was to be rated five times as heavily as real and personal property. This provision was adopted by St. John in 1869 and by Fredericton in 1871. It was abandoned by the province in 1875, by St. John in 1882, but it remained in Fredericton until 1907. In 1875 a heavy burden was placed on polls—one sixth of the whole. The land tax in Prince Edward Island is the survivor of the quit rents. In 1848 an Act was passed which requested Her Majesty to relinquish the quit rents and permit the province to substitute a land tax for the encouragement of education on the condition that the quit rents were relinquished. This was done. The most notable feature in the land tax was the discrimination in favour of cultivated land. The tax on wilderness land was five shillings for every one hundred acres; on cultivated land two shillings and sixpence. The earliest reference to assessment in Nova Scotia occurs in the Act of 1763 relating to the poor. The amount required for the support of the poor of the township was to be levied "in just and equal proportion, according to each person's known estate, either real or personal." The poor rate was kept separate until about 1856. In this year the demand for a "more equal and just system" led to a better definition of personalty, a system of exemptions, and a poll tax. Of the total assessment one-eighth was to be raised by poll tax; in 1859 the ratio was one-fourth; in 1864 the poll tax could not exceed 30 cents for poor rate or 30 cents for the other purposes. To-day it is 60 cents for counties and $2 for towns. From 1873 to 1900 the local authorities were permitted to abolish the poll tax. The definition of personal property in the Act of 1856 included personal chattels, stock-in-trade, moneys and ships (to one-half value). In 1888, the year of the Towns Incorporation Act, income became assessable, and banks and insurance companies were rated at $100 for every $20 net income or profits, provided that the tax were at least $150. The exemptions of 1856 included public property, property used for religious, educational and charitable purposes, provincial debentures, properties of widows of less than £100. To these were added the produce of the farm (1884), of fishing (1900), $400 of income in counties and $600 in towns (1888). The city of Halifax has had a most varied experience with the personal property tax. It is mentioned in 1841, but two years later it disappears and the assessors were directed to assess in "the most just and equal manner they can devise" by an equal £1 rate on real estate, regard being had to the rental value, and further, "according to the ability or capacity of every respective inhabitant to pay and contribute." Banks, insurance and joint stock companies were assessed according to profits, declared in 1844 *not* to be regarded as income, and in 1846 as net income or profits. Personalty reappears in 1849 and is defined as furniture, moneys, merchandise, ships, debts (including mortgages), securities and stocks. Everything is included. Joint stock companies are assessed according to net profits or income. In 1864 the tax on companies was changed, life insurance companies being assessed upon premiums, less expenses and debt claims paid; benefit building societies on deposits, like mortgages; joint stocks, £100 for each £6 of income. The tax on mortgages was abolished in 1866. In 1880 the bank tax was changed to ¾ per cent. of the paid-up capital, less the value of the real estate, which was assessed in the usual way in addition. In 1906 the special tax on banks was changed to a fee of $1,000 and ¼ of 1 per cent., based upon the volume of business. Money on deposit receipt was exempted from taxation in 1883. The principle of a special fee in addition to the usual tax on real estate was adopted in 1883 for insurance companies. This was extended to telegraph, telephone, cable companies and agencies. The early provision limited the special fee to 1 per cent. of the capital. A few years before, in 1876, fire insurance

high; but there are no navigable rivers of any length to keep down the rates by competition. Some compensation is found, as also in Prince Edward Island, in the deep indentations of the coast line, which bring the most remote spot in Nova Scotia within sixty miles of the sea, and in Prince Edward Island bring almost every locality within sound of the roar of the waves. New Brunswick has a fairly unbroken coast line, but is blessed with three magnificent rivers, besides a number of smaller streams navigable for some distance.

In 1904 New Brunswick exchanged the wasteful system of statute labour for the less popular road tax. The tax is lower than the statute labour at the old value of 50 cents for a day's work; but it is a money tax and many of the poorer people find it easier to give three days' work to the roads than $1.00. The tax is collected like other parish rates. The county treasurer credits each parish and each division with its returns, and places these at the disposal of the provincial commissioner of works. Local interests are protected by the provision requiring the money collected within a parish to be expended within that parish. The control of the expenditure by the provincial authorities is here an important innovation. In a sense the Highways Act of 1904 was foreshadowed as early as 1816, when the Assembly laid out certain Great Roads and made their up-keep principally a provincial charge. The Governor-in-Council appointed supervisors with powers similar to those of the superintendents of 1904. The funds, however, were derived principally from provincial grants.

In addition to these main arteries of traffic there were By-Roads supported largely by statute labour. These were under the control of the local authorities, the sessions at first, later the councils. From 1796 to 1835 the statute labour was practically a

companies were assessed at $1.15 for each $100 of income. In 1906 stock brokers were assessed at 1½ per cent. of the value of the real estate occupied by them. In 1891 the general company tax was based on realty and personalty, but it must reach a minimum of $100. The burden of taxation upon merchandise was lessened by assessing at three-fourths value in 1895. Ships were assessed at one-fourth value in the same year. Exemptions to new manufacturing industries for ten years were provided for in 1906. From 1849 to 1883 the real estate tax was levied on the occupant, and the value of the estate was based on rental, being ten times a fair rental. When the lien law was passed in 1883 the owners became liable. The poll tax was nominally $2, but practically uncollected until it was repealed shortly before 1891. In 1906 it was again required by law.

poll-tax, rich and poor contributing alike. Statute labour was compulsory in the city of St. John until 1835 and in Fredericton until 1850. The first suspicion of a tax appears in the assessment of one per cent. per acre of wilderness lands. This was in the Act of 1861. Later the tax was reduced. In 1896 county councils were given authority to substitute a road tax for statute labour, but no action was taken.

There are three Acts relating to roads in force in Nova Scotia. The Highway Act is the oldest. It places the expenditure of the provincial grants and the enforcement of the statute labour in the hands of the county councils. The councils in turn leave these matters to the councillors interested. The councillor recommends a supervisor for the district and he expends the money as directed by the council. The Road Act of 1899, now in force in four or five municipalities, differs from the Highway Act in combining from two to six polling districts into one road district, in placing it in charge of a road board composed of the councillors concerned. It, however, leaves untouched the most serious defect of the entire system—provision for skilled instruction and oversight. The centralized system will permit the carrying out under permanent officials of plans embracing large sections of country. For obvious reasons, however, it would seem advisable to unite local supervision and central direction. Though unpopular, the road tax is an improvement on statute labour and with a few changes might overcome a number of the objections now raised. The Halifax Road Act of 1898 is also a distinct step forward. It commutes the statute labour into a road tax, but unlike the New Brunswick Act permits any ratepayer to pay his tax in labour on the roads at one dollar a day. One supervisor is appointed by the councillor for each electoral district. Roadmasters are appointed for the road sections. Supervisors have discretionary powers in expending the government or county road grant apportioned to their districts. They are paid by the council and their accounts must be countersigned by the councillor of the district. In case of a dispute the warden and a committee shall investigate and have full power to pass finally upon the matter. The council may appoint one or more competent inspectors of roads for the whole county.

Schools

The support of education ranks second to no interest either in importance or cost. About one-third of the provincial revenues of each province is thus spent. This represents in Nova Scotia and New Brunswick less than a third of the cost of public schools, the balance being met by the locality (section, district or town). The province controls the training and licensing of the teacher and contributes to his salary.

In 1904 the percentages of the contributions were as follows:[1]

	By Province.	By District.
Nova Scotia	27.30	72.70
New Brunswick	29.09	70.91
Prince Edward Island	72.11	27.89
Manitoba	9.89	90.13
British Columbia	75.83	24.17

The supplement paid by the district in Prince Edward Island appears to have been originally an equivalent for the board of the teacher. Its inauguration marks the disappearance of the old practice of "boarding around."

In Nova Scotia and New Brunswick there is a third source of support—the municipal or county fund. The rich sections are required to assist the weak, as the rich man pays for the schooling of the poor man's children. This fund is distributed among the schools in such a way as to encourage open schools and regular attendance. Each ratepayer in the county contributes, but only those districts with open schools receive, and the amounts are proportioned to average attendance. The education of the blind and deaf is borne, one-half by the county school fund, one-half by the province.

The similarity between the systems of Nova Scotia and New Brunswick is due to Theodore H. Rand, afterwards head of McMaster University, who was intrusted by Sir Charles Tupper with the organization of the public school system in Nova Scotia in 1864, and who was afterwards called to New Brunswick in 1871 to perform a similar service.

The first public Act on behalf of education in the province of

[1] Statistical Year Book of Canada, 1904.

New Brunswick was passed in 1800, when the College of New Brunswick (a secondary school in disguise) was established and granted support. Five years later (1805) the Legislature made similar provisions (under another name) for St. John; and established the first parish schools—two being provided for each county and placed under the management of the justices of the sessions. Royal instructions to the first Governor directed that no one be employed as teacher unless he held a license from the Bishop of London or the Governor of the province. The year 1816 witnessed an enlargement of the plan of 1805 with a very important addition. Aid was to be granted to parish schools conditionally upon the inhabitants subscribing a proportionate amount. Further, authority was given to assess, should the inhabitants so decide; and trustees for the parish were to be appointed. The germ of the school district appears in the exemption from compulsory assessment granted to any one living more than three miles from the school. In 1829 the College was reorganized and further provision made for grammar schools; but higher education languished. The parish schools, however, multiplied and increased in usefulness. In 1833 the trustees were directed to divide the parishes into school districts; increased grants were made and hampering restrictions withdrawn; and two female schools (i.e., schools taught by women) were authorized for each parish. The tasks of examining and licensing teachers and of inspecting and supervising the schools became too great for the Governor-in-Council. In 1837 these matters were entrusted to boards of education appointed for each county. Ten years later these boards were superseded by a provincial board which was specially enjoined to make provision for the training of teachers and to select text-books. In 1852 a Superintendent of Education for the province was appointed.

The provincial allowances were at first unconditional grants, then (1816) conditional upon the locality's subscription. This was repeated in 1823, and in 1833 the grants were limited to the number of schools in the parish. In 1847 the allowance was granted according to the grade of license of the teacher, and in 1852 according to the sex of the teacher. A bonus of 25 per cent. (1852) or 10 per cent. (1858) was granted to districts

adopting the assessment in place of the subscription principle. The next radical move was made in 1871 when compulsory assessment was introduced and the schools became free throughout the province. About 1879 an attempt was made to secure greater efficiency by conditioning the provincial grants upon the inspector's reports. This system of payment by results proved so unpopular that it led to the resignation of the Superintendent and its abolition. Another experiment is now being made. Its object is to meet the evils, arising from the depopulation of the rural districts, by a system of consolidation which was initiated through the liberality of Sir William Macdonald, of Montreal.

The district school tax is levied by the district according to the county valuation and is collected by the district. The provincial grant varies with the grade of license and the character of the school. A teacher in a poor district receives a larger allowance, as does the teacher of a secondary school (called Academy in Nova Scotia and Grammar School in New Brunswick). The same is true of the teacher in a superior school in New Brunswick, or High School in Nova Scotia. The superior school is a hybrid—half common and half grammar school—or, better, a first-class common school with a tincture of Latin. It is intended to serve the parish in a manner not unlike that in which the Grammar School serves the county. Special grants are also made to manual training and domestic science schools. The New Brunswick system is spared the district school commissioners of Nova Scotia whose present powers are now exercised chiefly in subdividing already minute school sections to satisfy quarrelsome local factions.

The Poor

The care of the poor has from the first been an important duty of the township or parish. The earliest legislative and administrative acts in the provinces kept the poor in view. In Nova Scotia the township (or "settlement") meeting appointed officers and authorized assessment and for a time disposed of the poor for the coming year. The first Legislature of New Brunswick in 1786 remembered the poor. Except in a few

instances the burden has been purely local.[1] The care of the poor was a religious as well as a civic duty; and this is recognized to this day in Prince Edward Island, where, for example, in Charlottetown and probably elsewhere, a certain portion of the poor grant is given to the different churches to be expended by them.

In earlier times poor relief was given sometimes to parents for looking after a lunatic or crippled child or relative (e.g., in Prince Edward Island in 1819), or to some person in the community who agreed to look after the unfortunate, subject, of course, to the approval of the overseers. Poor children were apprenticed—a practice open to great abuses. The auction or tender system was gradually supplanted by the almshouse; but it is still found in the parsimonious parishes and districts of New Brunswick. It has been forbidden by statute in Nova Scotia since 1900. St. John built the first almshouse in New Brunswick prior to 1810, and the Governor and Council built one in Halifax shortly after that city was founded. In New Brunswick, St. Andrew's followed St. John in 1824, Woodstock in 1860, and Northumberland in 1867; while in 1897 a general Act gave a parish or group of parishes power to erect almshouses. These almshouses are primarily parochial, not county institutions. A number of parishes usually combine, but they and not the county are responsible.[2] This has led in New Brunswick to great variety in the appointment of the commissioners of the almshouses. In some places they are appointed by the Governor-in-Council, in others they are elected; in others appointed by the sessions or council (city or county); in others two or more methods are combined. The commissioners report to the municipality.

The poor insane were once a provincial but are now a local charge in Nova Scotia and New Brunswick. Each parish or

[1] In New Brunswick for example the province made grants to St. John and St. Andrew's for needy immigrants one or two seasons after heavy immigrations. Grants of seed potatoes were also made in 1817 and perhaps 1846. After the great fire of 1839 £20,000 was lent to St. John sufferers. In 1790 the province of Nova Scotia gave £1,500 to Halifax for support of transient poor and an impost was levied in 1800 for support of the poor.

[2] As early as 1799 the regulations adopted for the poor house in Halifax were authorized for similar houses where erected in other counties.

township must bear its own burden of the poor. Charity begins and ends at home. There is not a little ungenerous rivalry in aiding the poor to go to other localities; but the law of settlement is strict and well defined. A year's residence is now required in New Brunswick, and in Nova Scotia it has been obligatory since 1770. Since 1837 the French of Dorchester, Shediac and Moncton have cared for their own poor; and in 1901 they received authority to erect an almshouse.

In Prince Edward Island the poor relief is distributed by the members of the Legislature either directly or through nominees. The amounts are individually small and the number requiring aid is not large.

Within recent years local hospitals have been erected in a number of towns, supported in part by fees and gifts, in part by local assessments and provincial grants.

On account of the absence of provincial tabulations, and of the inadequacy of local reports, it is not possible to give a statistical review of local finance.

LOCAL GOVERNMENT IN NEWFOUNDLAND

BY

D. W. PROWSE, LL.D.

LOCAL GOVERNMENT IN NEWFOUNDLAND

The story of Newfoundland's local government is so extraordinary and makes such a grotesque chapter in colonial history that any reader might be pardoned for treating it almost as romance, an ingenious invention of some writer of fiction. Newfoundland is not only the most ancient British colony, but, putting aside Raleigh's unfortunate colonization schemes in Virginia, was for over one hundred years England's sole possession in the New World. The generally accepted view that its discovery is to be credited to Sebastian Cabot (1497), and that the first attempt at colonization was begun by Sir Humphrey Gilbert in August, 1583, has been shown to be wrong.[1] It was John Cabot to whom the honour of discovery fell. Sebastian his son never set foot in North America. Moreover, when Sir Humphrey Gilbert came to St. John's, the sole survivor of the expedition, Hayes, describes it as "a place very populous and much frequented." Every part of the east coast was familiar to English fishermen and when Gilbert hove-to to get supplies for his impoverished crews, fishermen from the west of England who were then in control would not allow him to land until he had shown his commission from Queen Elizabeth.

The local government of that day and for many years later is known as the rule of the "fishing admiral," one of the most grotesque forms of government ever devised. The first English skipper to enter the harbour became for the fishing season admiral and supreme judge. This was in accord with the custom not only among the English but among all the foreign fishermen as well who then frequented the island. The democratic English, however, made the admiral change about each week so that each master in turn became ruler. The new admiral signalized each Sunday his entry into authority by a grand spree for all his fellow skippers. The most curious part of the proceeding is that both the French and English Governments by special enactments legalized this fantastic rule. By an ordinance of Louis XIV, prepared by his great minister, Colbert, the following rules were enacted for the French Newfoundland fishery:

[1] See Prowse, *History of Newfoundland.*

(1) The first who shall arrive at or send his boat to the harbour called the Havre du Petit Maître (on the extreme north-east coast of the island) shall have the choice and take the space of ground necessary for his fishing. He shall then put up, at the place called "The Scaffold of the Grapple," a bill signed by him stating the day of his arrival and the harbour which he has chosen.

(2) All other masters on their arrival shall go or send to the same place and write down on the same bill the day of their arrival, the number of their men and the name of the harbour and the place which they have chosen, in proportion to the burthen of their ships and the number of their mariners.

(3) The captain that arrives first shall cause the bill or placard to be guarded by one of his men, who shall remain upon the place till all the masters shall have made their declaration, which afterwards shall be put into his hands.

(4) No masters or mariners may settle in any harbour or station till they have made their declaration in the form aforesaid, nor shall they disturb any other master in his choice that he may have made under the penalty of 500 livres.

The first French master who arrived in the harbour was, like his English prototype, supreme ruler and judge over all. On his return he was to furnish a full report of his proceedings to the judge of the Admiralty Court. One curious provision in these rules is characteristic of the age—"All French subjects of what quality or condition soever might cause ships to be built or bought, and carry on a trade at sea by themselves, or agents, without its being considered derogatory to their quality, provided they sold nothing by retail."

Practically the same rules giving authority to the English fishing admirals to put the various orders in execution were maintained by the Star Chamber rules of Charles I and Charles II. This authority was also continued by the Act, 10 and 11 William III, Cap. xxv. The title is still surviving in the Admiral of the British Herring Fleet in the North Sea and in the *Prud'homme* or ruler over French fishermen on the west coast of Newfoundland.

These fishing admirals were at this time merely the servants

of the merchants; and it need hardly be said that their rule was a travesty of justice. Their régime was interrupted for a short period by the piratical adventurer, David Kirk, the conqueror of Quebec. In reality Kirk was only the head of a trading company, but he constituted himself supreme governor and ruled over all with a rod of iron. He set up public-houses and no one was allowed to purchase liquor except from the gubernatorial tap. He was removed, not so much for robbing the fishermen as for plundering his associates in the company.

In 1640 John Downing was sent out as Governor, but he filled the office only a short time. The first real Governor was a resident of Maine, John Treworgie, appointed by Cromwell. During his tenure of office there was a regular and honest government and the rule of the fishing admiral was for the time superseded. He was such an excellent public servant that, although a Puritan, he was retained in office for some time under Charles II. It is lamentable to relate that he had to petition both Cromwell and Charles for his "sallary," which was never paid.

About the reign of Queen Anne the rule of the fishing admiral was tempered by the authority of the naval officers. They gave the settlers quarter-deck law. Rodney's instructions to his subordinate officers are unique. "In case any other complaints shall appear before you of crime and misdemeanors upon the land you have final power and authority to adjudge and determine the same, according to the custom of the country and the best of your judgment."

Some of these naval rulers were far in advance of their age. They had gatherings of the inhabitants modelled on the New England town meeting. These local parliaments on the voluntary submission of the general inhabitants were a mixture of legislative, judicial, and executive functions all blended together. They first appear under Captain Crowe, R.N., as Governor (1711), and were continued by Sir Nicholas Trevanion (1712). Their success is in large measure attributable to the fact that it was a time of war, when a sense of common danger from their dreaded enemy, the French, drew the English inhabitants closer together. A short extract from the records will show us best the character of this unique system of municipal government.

"By Sir Nicholas Trevanion, Knight, Commander of H.M. Ships and Garrison, Governor in Chief at Newfoundland. Dec. 10th, 1712.

A record of several courts held at St. Johns for better discipline, good order of people, etc., debated at Courts held. Present Admiral and Vice Admiral [the fishing Admirals]. Merchants and chief inhabitants and witnesses being examined, it was brought to the following conclusion,

(1) That order be put up at Public Houses and other places for suppressing drunkenness.

(2) Confirmed last year by Captain Crowe that Mr. Jacob Rice, Anglican Minister of St. Johns, should have as follows:

From Shallops.....	Three quintals dry fish.
From two-men Boats.....	Two " "
From Skiffs.....	One quintal "

and planters being very backward in paying he got only one hundred quintals of fish this season.

(3) Confirm John Collyns, Esq., Governor of Fort William and it is appointed that during cessation [absence of Governor during the winter] twenty men lie in the Fort every night.

Other matters between masters of ships and planters and boat keepers relate to debts not mentioned, parties being satisfied."

The whole of these proceedings, very ingeniously contrived and very satisfactory in the primitive condition of the colony, were, of course, wholly illegal, and when war ceased they, too, came to an end.

In 1729 an attempt at real government was begun by the appointment of Lord Vere Beauclerc, with whom was to be associated a lawyer. The island was to be divided into six districts with courts of quarter session. But as Lord Vere wished to hold his seat in Parliament, a very inferior substitute was sent out (Osborne), together with eleven copies of "Shaw's Practical Justice of the Peace," a dull pedantic work very forbidding to a layman.

It must be borne in mind that all through this eighteenth century there was no resident governor. The naval officer who acted as supreme ruler arrived some time during the summer, stayed a

week or two, and then went off to the West Indies or England. A civilian merchant, like John Collyns, Esq., was appointed governor for the winter. The courts, such as they were, had also no regular professional judges and no salaries. An American Loyalist, Dr. Gardner, gives the following account of the St. John's court. The capital then contained probably about 5,000 regular inhabitants and 5,000 more of transient fishermen; 108 public-houses were licensed by the magistrates solely for the fees. "An inoffensive tailor," writes Gardner, "had for several days in the summer of 1783 been intoxicated and was by that means rendered insane. In this situation he affronted his neighbour, a widow woman, with improper language, accusing everyone of robbing him. The woman summoned him, but he did not appear, still too drunk, and in default for contempt of court was fined £150 sterling and his property attached. As he was very wealthy it was of course paid and the three justices divided the money." Popular opposition to these courts resulted in the establishment of a regular supreme court in 1791. The first chief justice was a trained lawyer and proved to be an excellent choice.

The colonial policy of the British Government towards Newfoundland was clear. No encouragement was given to colonization and no regular governor or courts of justice were provided for. A fishing station for Devonshire fishermen—such was the island in the eyes of the mother land. Captain Cook, the navigator, who mapped the colony, seems to have entertained a different estimate. He described the country as rich in minerals and timber, with beautiful rivers and lakes and plenty of good land for cultivation.

The advent of constitutional local government was largely brought about by an act of judicial barbarism in 1819, when two fishermen were flogged for not promptly answering a court summons. The rough and ready constitution of the island was seminautical in character; the admiral was governor and the "surrogate" officials of the Admiralty court were justices. It was in great measure the indignation over the flogging incident that kept alive the agitation for reform. In 1824 Supreme Circuit and Quarter Sessions were duly constituted, and eight years later (1832) a constitution was finally granted to the colony. Land

grants were first made in 1813; but the first public road was not opened until 1832.

Under the new constitution a great impetus was given to road-making and public improvements of all kinds. Local road boards with a variety of duties were appointed by the Governor-in-council. Quarter sessions also had extensive duties of local supervision. They were abolished in 1901, their labours of supervision being taken charge of by stipendiary magistrates. By an Act of 1897 the appointed road boards may be transformed into popularly elected "Divisional Boards." A petition to the Governor-in-council asking for such a charge is first subjected to a report from the nearest stipendiary magistrate. A divisional board holds office for two years. No ballots are used at its election, entries of votes being made in a book. The Governor-in-council also appoints boards of health or instructs a stipendiary magistrate to act. Outside of St. John's all assessment and taxation is done by the Legislature, whose jurisdiction also includes Labrador. Liquor licenses are of two kinds, wholesale and retail, and are granted by the stipendiary magistrates, who in the case of retail shops fix the fee as well. A wholesale license costs $100; the retail fee varies from $10 to $70. But provision is made for local option by a bare majority of votes in any district.

Educational matters according to the last general educational Act of 1903 are entrusted to boards of education appointed by the Governor-in-council for each leading denomination, to which provincial grants are made. Thus there is a Church of England, a Roman Catholic, a Presbyterian, a Congregationalist, a Methodist, and a Salvation Army board of education. Fees are charged of from $1 to $4 per year for instruction at board schools. One member of each school board retires annually in order of seniority of appointment.

The town of St. John's, the capital of the island, with a present population of 30,000,[1] is the only fully organized municipality. In 1888 by Act of Parliament the inhabitants were allowed to elect a mayor and five councillors who were to act with two appointed councillors for three-year terms. At present,

[1] The total population of Newfoundland in 1901 was 202,984.

as provided by the Act of 1902 which is still in force, the council consists of a mayor and six councillors all elected by popular vote for a period of four years. The mayor is paid a salary of $600 and $900 is paid to the councillors according to attendance. The franchise is generous, all residents of one year who have paid their assessments being entitled to vote. Each candidate for the council at nomination deposits $50 with the returning officer. If he receives one-half of the votes polled by any successful candidate one-half of his deposit is returned to him. In this way election expenses are defrayed and a check is placed on chance nominations. Another interesting provision that is worthy of being copied is the clause permitting every corporation to vote at elections. The vote is cast by an officer appointed for the purpose in writing. The council has full control of the highways, which does not seem to be the case in Canada.

The town water supply, now very ample, is in charge of the council and is obtained from Windsor Lake about six miles from St. John's. Water charges are fixed on rental values of property, a lower charge being made on non-users than on users. Any person found guilty of wrongfully wasting water is subject to a fine of not more than $20. The gas and electric light plants are owned and operated by private companies. For gas a charge of $2 per thousand is made, a reduction of 50 per cent. being allowed for cooking and heating.

Over one-half of the municipal revenue is derived from taxes, water and sewage rates on rentals, and fees. No tax reduction is made for mortgages. Government buildings are exempt but it is provided that the Government will pay such reasonable sums for protection and for water as the council may determine. The net revenue from the water department is relatively large, amounting in 1905 to $23,817.36, that is, one-seventh of the revenue of the town. The Government also pays the town all duties on coal imported into the municipality, rents from Crown property in St. John's, a definite sum of $8,000 for lighting and sanitation, and special appropriations for roads, streets and bridges. In 1905 the customs coal duties paid made up $52,368.51, or one-third of the revenue. On the other hand the town pays the Government the sum of $12,000 towards the expenses

of maintaining a fire department. Among the sundry licenses is one of $500 on brokers doing business as stock brokers on margins. The council is not permitted to incur liabilities beyond the actual revenue without special consent of Parliament, and must render a full report of its municipal work each year to the Governor-in-council. The debt of the town is large, amounting on the 31st of December, 1905, to $1,195,721.77; the interest charges on it being $46,835.99 out of a total municipal expenditure of $160,416.45.

SOME NOTES ON THE CHARTERS OF MONTREAL AND RELATED STATUTES

BY

THE HON. R. STANLEY WEIR, D.C.L.,

CITY RECORDER, MONTREAL

SOME NOTES ON THE CHARTERS OF MONTREAL AND RELATED STATUTES

Territorial Limits of the City

"And be it enacted, That the tract of land which, in and by a certain Proclamation of His Excellency Alured Clarke, Esquire, Lieutenant-Governor of the heretofore Province of Lower Canada, issued under the Great Seal of the said last mentioned Province, and bearing date the seventh day of May, in the year of our Lord one thousand seven hundred and ninety-two, was and is described as being comprehended within the City and Town of Montreal, and which it was therein declared should be thenceforward called by that name, shall, as provided by the said Ordinance herein first mentioned[1] constitute and be, and be called, the City of Montreal." Such is the clause indicating the limits of Montreal, to be met with in the early legislative charters of the city.[2] The Lieutenant-Governor mentioned was merely a *locum tenens,* the Governor, Lord Dorchester, being in England, in connection with the passage of the Constitutional Act. The proclamation referred to was made by Major Clarke as Lieutenant-Governor and divided the province, in virtue of that Act, into counties, cities and towns. As it is not easy of general access,[3] that portion defining the limits of the city and town of Montreal may be quoted here:

"The city and town of Montreal shall include the whole of that stretch or portion of ground (forming part and parcel of the aforesaid county of Montreal) bounded in the front by the river St. Lawrence and in rear by a line parallel to the general course of the fortification walls in rear of the said city to a distance of 100 chains from the gate commonly called the St. Lawrence Gate, and bounded on the east or lower side by a line running parallel to the general course of the fortification walls on

[1] 4 Vic. cap. 36, s. 2, i.e. Charter of 1840.

[2] Ibid., the date erroneously given as 1791, 14 & 15 Vic. cap. 128, s. 3, 37 Vic. cap. 51, s. 2.

[3] *Rapport au Comité Choisi sur le Gouvernement Civil au Canada.* Quebec, 1829. Neilson & Cowan.

the east or lower side of the said city to the distance of 100 chains from the gates of the Quebec suburbs commonly known as the Quebec Gate, and on the west or upper side by a line running parallel to the general course of the fortification walls on the west or upper side of the city to a distance of 100 chains from the gate of the St. Antoine suburbs commonly called the Recollets' Gate; and that the city and town of Montreal be and by these presents is declared to be divided into two parts which shall be respectively named East and West, and that the East end shall include all the eastern or lower part of the stretch of land above designated bounded on the west or upper side by a line running through the middle of the main street of St. Lawrence suburbs and its continuation, and through the middle of the street called Conjugation Street and Notre Dame Street, and through the middle of the latter westward to the middle of St. Joseph Street, descending thence through the middle of St. Joseph Street to the river; and that the West end shall include the remainder of the said stretch or portion of ground within the limits hereinabove designated." The delimitation of territory in the proclamation of the 7th of May, 1792, continued to form the legal circumference of the city until 1889, when by the charter granted in that year it was declared that the city should comprise the tract of land indicated in the plan certified by the City Surveyor in duplicate under date 3rd January, 1889, one copy being deposited in the office of the Clerk of the Legislative Council and the other with the City Surveyor.[1]

Doubts having arisen as to the sufficiency of this description, a more detailed description following the boundaries of the city with great circumspection was sanctioned in the consolidating statute of 1899. St. Helen's Island, Ile Ronde, and Ile Verte were also included within the limits of the city,[2] and for municipal and police purposes its jurisdiction extends southward to the centre of the river St. Lawrence. Since 1899, however, the boundaries of the city have been still further extended by the inclusion of contiguous municipalities, comprising chiefly the cities of St. Henry and St. Cunegonde;[3] while a Greater Mont-

[1] 52 Vic. cap. 79, s. 5.
[2] 62 Vic. cap. 58, s. 5-6.
[3] *Infra* p. 288.

real, to embrace the whole island with its area of over 300 square miles and numerous municipalities, is the dream of not a few.[1]

Early and Later Charters

The characteristic feature of municipal affairs in the cities of Montreal and Quebec during the régime under the Constitutional Act (1791-1837) was, as pointed out elsewhere, an administration by justices of the peace.[2] No better notion of the scope and manner of their detailed work can be obtained than from a perusal of the minutes of the meetings of the justices of Montreal, still preserved in the archives of the city.

The statutory history of Montreal begins with William IV's sanction (5th June, 1832) of an Act of incorporation passed by the Legislative Council and Assembly of Lower Canada about fourteen months before (31st March, 1813)[3]. The inhabitants of the city were declared to be a body politic and corporate under the style and title of "The Corporation of the City of Montreal." It is a curious illustration of the persistence of words that although this statutory name was not repeated in any subsequent enactment, the word "Corporation," in the sense of the civic powers that be, is used in common parlance in Montreal to this day. The city was divided into eight wards[4] and two "common-council men" were elected from each; the common-council thus composed elected the mayor. Among the interesting provisions of this first charter were those requiring that all by-laws, regulations or ordinances should receive the approval of the Court of King's Bench before becoming effective,[5] and that any person refusing to serve as common-councilman should incur a penalty of £25 to be applied to the uses of the "Corporation."[6] Borrowing powers were restricted to the sum of £10,000, and the com-

[1] Of old Montreal the best collection of maps is that published in 1884 privately by the late H. Beaugrand, Mayor of Montreal. A great many valuable maps are to be found in the City Surveyor's office.

[2] *Municipal Institutions in P.Q.* (University of Toronto Studies, History and Economics, vol. II, p. 50.)

[3] 1 Wm. IV. c. 54.

[4] The names of these wards may interest the "old inhabitant." They were East, West, Sainte Anne, St. Joseph, St. Anthony, St. Lawrence, St. Louis, St. Mary. The boundaries of these wards, as given, also disclose interesting topography.

[5] Sec. 10.

[6] Sec. 17.

mon-council was authorized, somewhat vaguely, to exercise the same powers exclusively as the justices of the peace had formerly exercised.

This charter was declared to be valid for four years only, and at the end of that time, doubtless owing to the disturbed political condition of the province and country, it was not renewed. Commenting upon the absence of municipal government, Lord Durham in his famous report referred to the disgraceful condition of the streets and the utter absence of lighting as seriously affecting the comfort and security of the inhabitants. On May 2nd, 1836, the Court of Special Sessions of the Peace resumed their sittings for the administration of the town and continued them until August, 1840. In that year the city received from the special council that administered the affairs of the province between 1839 and the passage of the Act of Union in 1840 its second charter.[1] The new corporate name was "The Mayor, Aldermen, and Citizens of the City of Montreal." The city (with a population of approximately 40,000) was divided into six wards electing three councillors each, making a total common council of eighteen; but the first mayor and councillors were appointed by the Governor of the province by letters patent. An amending ordinance[2] was passed in the following year clearing up some doubtful points as to elections and levying of taxation.

In 1814 (population about 45,000) as provided in 8 Vic., cap. 59, another arrangement of wards was made. Of nine wards three were styled city, and six suburban wards, the city wards electing three councillors each and the suburban two, the full council thus numbering twenty-one.

The next constitutional change took place in 1851 when, in virtue of 14 and 15 Vic., cap. 128, a consolidation of the various statutes relating to the city was made. The election of the mayor hitherto held by the council was entrusted to the people, a method subsequently adhered to without deviation. The number of wards was increased to nine and the suburban wards, which had been increasing in population, were given the right to elect three councillors each. The full council now numbered 27, the population being 58,000. Council meetings were held every three

[1] 4 Vic. c. 36 (1840).
[2] 4 Vic. c. 32 (1841).

months, although special meetings might be called by the mayor, or failing his consent by a requisition of councillors. This statute enlarged the power of the city council to pass by-laws for various matters pertaining to health, good order, etc., which it described in detail.

Instead of exercising authority in virtue of power to pass by-laws for the "general welfare" and interpreting this authority in the light of jurisprudence and the decisions of the courts, the city preferred, and has ever since persisted in the practice, to ask the Legislature (although, of course, the Legislature in point of form appears to impose its own will) to specify the particular powers that the city may ask. The obvious objection to such a method is the impossibility of foreseeing all the particular local needs and the consequent necessity of almost annual applications to the Legislature, these annual petitions frequently serving as the occasion for conjoint demands for the promotion of private interests often in spite of the city's protests.

The statute of 1851 was also notable for the establishment of a Recorder's court with extensive powers.[1] Since 1899 it consists of two Recorders or judges whose independence is assured by their being nominated by the Lieutenant-Governor-in-council and liable to removal only upon joint address of the two branches of the Legislature. Up to this time the greatest importance seems to have been attached by the citizens of Montreal to their representation in the council and the mode of election of their mayor and councillors. This was perhaps natural during and following upon a period of constitutional agitation. Frequent recourse, too, was had to the Legislature, especially for the raising of money for the necessities of the growing city. The long list of special legislative authorizations shows that the possession of a so called civic charter is no guarantee of local independence. The charter has been revised and consolidated four times; in 1851, 1874, 1889, and 1899.

The statute of 1874 is memorable in that it established the procedure, since followed in all essential particulars, for the costly acquisition of immovable property for the widening of streets and highways—a remarkable and unique feature, it is believed,

[1] See University of Toronto Studies, History and Economics, vol. II., No. 3, p. 60 [342].

in civic administration. It will perhaps be worth while to trace directly the genesis and development of these expropriations which have cost Montreal so dear. The charter of 1874 also authorized the acquisition of the extensive and magnificent hill behind the town for park purposes, covering an area of about 650 acres. to be known as Mount Royal Park.

The revision and consolidation of the charter of 1889[1] was instigated chiefly through the efforts of the Hon. J. J. C. Abbott as mayor of the city. The almost annual amendments made since the consolidation of 1874 required collating and systematizing. The result was an orderly and ample grant of autonomous powers. Had the city been content to keep within these limits, much extravagance and wastefulness might have been avoided. The charter of 1889 was framed as a constitution defining in general terms, with one exception, the powers and duties of the city in respect to the various branches of its organization and service. It comprised twenty-two titles, the names of which will indicate their scope: 1. Interpretative provisions; 2. Incorporation (the city of Montreal); 3. City boundaries—wards—annexation of territory; 4. The city council—mayor and aldermen; 5. Municipal electors—voters' list—revision of lists; 6. Municipal elections; 7. Contested elections; 8. Meetings of council; 9. Officers of the council; 10. Taxation; 11. Collection of taxes and assessments; 12. Sale of immovable property for taxes, etc.; 13. Finances; 14. Consolidation of the debt; 15. By-laws; 16. The Recorder's court; 17. Streets and highways; 18. Expropriation; 19. Special assessments; 20. Special provisions as to the widening of St. Lawrence and Notre Dame streets; 21. Water-works; 22. Miscellaneous provisions (procedure, abbattoirs, etc.).

The one exception to the general and strictly constitutional form and substance of this charter was contained in the twentieth title, which authorized and indeed commanded (the real motive power being interested citizens and not the Legislature) the expropriation of portions of two important thoroughfares. The results of this craze for public expropriation have been touched on elsewhere in these Studies. It may be merely remarked now that this pernicious example of mandatory special

[1] 52 Vic. cap. 79.

legislation was followed in succeeding years by a perfect avalanche of similar legislative commands, all procured, as in the previous instance, at the behest of the city council or parties interested in obtaining good prices for their lands and buildings. Almost a decade of extravagant and rash administration had its natural result in a general protest from the citizens. It was decided once more to revise and consolidate the charter. A special committee was appointed for the purpose and the result of their labours, after revision by a committee of aldermen, was submitted to the Legislature, with the result embodied in 62 Vic., cap. 58 (1899).

The charter of 1899 is a notable advance upon preceding charters in at least one respect to be immediately noted, but is marred by inconsistencies which prevent its distinguishing feature from wielding proper influence. The charter was excellent in its intention to obviate the vicious necessity of applying annually to the Legislature for further grants of powers by providing an ample measure of "home rule." With this object it was declared (sec. 299) that:

"It shall be lawful for the city council to enact, repeal or amend, and enforce by-laws for the peace, order, good government and general welfare of the city of Montreal, and for all matters and things whatsoever that concern and affect the city of Montreal as a city and body public and corporate, provided always that such by-laws be not repugnant to the laws of this province or of Canada, nor contrary to any special provisions of this Charter."

Borrowing the phraseology of the British North America Act the section continues as follows:

"And for the greater certainty, but not so as to restrict the scope of the foregoing provision or of any power otherwise conferred by this charter, nor to exceed the proviso hereinabove mentioned, it is hereby declared that the authority and jurisdiction of the said city council extends and shall hereafter extend to all matters coming within and affecting or affected by the classes of subjects next hereinafter mentioned, that is to say: 1. The raising of money by taxation; 2. The borrowing of money on the city's credit; 3. Streets, lands, and highways, and the rights of passage above, across, along or beneath the same; 4. Sewers, drains, and aqueducts; 5. Parks, squares and ferries; 6. License for trading and peddling; 7. The public peace and safety; 8. Health and sanitation; 9. Vaccination and inoculation; 10. Public works and improvements; 11. Explosive substances; 12. Nuisances; 13. Markets and abattoirs; 14. Decency and good morals; 15. Masters and servants; 16. Water, light, heat, electricity and railways; 17. The granting of franchises and privileges to persons or companies; 18. The inspection of food."

The foregoing conveyed a wide grant of powers and it is to

be regretted, not alone for the sake of consistency and form, but for its practical result, that the next section should proceed (even if not by way of limitation) to detail the specific matters and things regarding which by-laws might be passed. The practical result has been twofold: First, a singular reluctance on the part of the city to avail itself of the general powers granted, with frequent applications to the Legislature to add to the one hundred and fourteen unnecessary delimitations that are set out in section 300, and, second, a tendency on the part of the courts, when the validity of any by-law is questioned, to test by the delimitating article exclusively.

The general grant of powers was perhaps wisely limited in respect of "borrowing money on the credit of the city" by sections 343 *et seq.*, which fix 15 per cent. of the taxable real estate as a general standard, but it was certainly unnecessary to obtain special powers to impose the long list of special taxes enumerated in sections 363 and 364. The power to impose these was clearly conveyed by section 299. The result has been that for special taxation, as in other connections, fresh legislation has been constantly invoked. The city does not even yet seem to realize the uncommonly large measure of autonomy it really possesses but persistently refuses to exercise. The vice of frequent application to the Legislature permits interested parties to use the opportunity for legislation in their private interest.

Extension of Civic Area

The growth of homesteads, villages, towns and cities in the vicinity of Montreal, and their gradual although not yet complete absorption into the city is an interesting chapter. Influences of local geographical conformation, climate and the rise of suburban business undertakings have led to intermittent precipitations of populations about Montreal. In England, where horse traffic has long been the rule, we find the country towns, ranging with singular uniformity according to the roads and gradients, separated and yet within touch at eight and fifteen miles. In accordance with a very similar law, the various villages surrounding Montreal grew up, distinctly separated from it by land more or less under cultivation; and yet within easy coming and going distance by horse. The alteration of distances through the in-

vention of steam power, followed by the electric tram, introduced the next stage.[1]

The revised and consolidated charter of 1874 empowered the city council by the concurrent vote of three-fourths of its members to extend the limits of the city by annexing for all municipal purposes any adjoining municipality, upon mutual consent and the passage of a by-law according to special procedure duly outlined. This provision was repeated in the revised charters of both 1889 and 1899. In the year 1906 it was taken advantage of by the towns of St. Henry and St. Cunegonde lying immediately adjacent to Montreal, and to the eye not distinguishable from it. Negotiations are steadily going on with other suburban municipalities with a view to the creation of a larger Montreal. Though sentimental reasons play a part, it is also in part a measure of self-protection. Whether these adjacent towns and cities become formally part of the city or not, in many ways they do form part of the city, owing their origin to it and constantly depending upon it. Moreover, when they begin to give evidence of bad management in finance (as referred to in the following paper) or sanitation, the parent city becomes at once concerned. In 1883 when the town of Hochelaga was annexed, the city assumed its assets and liabilities and the town became a new ward in the city. Certain industrial establishments which were exempt from taxes in Hochelaga were allowed to enjoy these exemptions for limited terms.[2] In 1884 the town of St. Jean Baptiste, in 1887 the village of St. Gabriel and in 1893 the town of Côte St. Louis became, like Hochelaga, wards of the city of Montreal with representation in the city council as such.[3] By by-laws adopted on the 30th October and the 4th December, 1905, the cities of St. Henry and St. Cunegonde respectively with a combined population of 40,000 were formally incorporated with Montreal,[4] each city becoming a ward with the usual representation of two aldermen in the council. The village of Rosemount was annexed to St. Mary's ward by by-law, dated 2nd April, 1906, and a portion of the parish of Sault-au-Recollet was

[1] See H. G. Wells, *Anticipations*.
[2] By-laws of the City of Montreal, 1893, p. 368.
[3] Ibid. pp. 375 and 382.
[4] By-laws 342 and 350.

added to St. Denis ward in virtue of a by-law passed on the 5th November, 1906.[1] Negotiations are now pending for the further annexation of such large and populous communities, lying absolutely contiguous to the city, as Maisonneuve in the east, and St. Louis and Outremont to the north. The wealthy and populous city of Westmount, lying north-west of the city, shows, however, no inclination to unite formally with Montreal, although the vast majority of householders by their commercial affinities are citizens of Montreal, making use of Westmount as a place of residence.

There is usually some special incentive to annexation. For example St. Henry's debt when united with Montreal was 25.55 per cent. of its taxable property. St. Cunegonde's was 20.37 per cent. These figures show that the line of safety, always fixed at 15 per cent., had been considerably overstepped and that the time was ripe for a change of régime. Common interest in drainage and public health, prevention of defective alignment levels and related conditions, of disturbing contracts with light and traction companies, etc., were additional reasons. At the time of writing the city's area is about twelve square miles and its population somewhat over 400,000.

Improvements of Highways

Few cities (certainly none in America) are more compactly built than Montreal. Owing in part to fears of incursions by the Iroquois, in part in accordance with old custom, the streets were narrow. The old town until 1801 was enclosed within walls, and the natural tendency was, of course, to continue within this shelter. The main roads as built by the intendants were not more than twenty-four feet wide and the cross streets were frequently narrower. As the city extended the newer streets were given greater width, but the utility and desirability of ample spaces are comparatively modern conceptions, so that, in spite of many alterations to street lines, Montreal retains the compactness and narrow thoroughfares which mark nearly all cities whose origin antedates the nineteenth century. St. Paul street, a long and important thoroughfare, has to-day an average width of 32 feet,

[1] By-laws 353 and 360.

but has been widened at intervals during the past two centuries from an original width of probably not more than twenty feet. Such streets in the heart of Montreal to-day as St. Vincent (24 feet), St. Gabriel (25 feet), St. Claude (18 feet), St. Amable (14 to 18 feet) are typical of the old régime. In 1706 an ordinance of the intendant Randot fixed the width of "les grands chemins" at 24 feet, so that the prevailing standard was probably less.[1] In May, 1796, the width of streets was fixed by the first provincial Parliament at 30 feet. In 1841 the city was empowered to improve the thoroughfares,[2] as also in many a later statute.

Those who are interested in the later history of the streets and highways of Montreal will find interesting data in a book which is kept in the city surveyor's office. All streets here entered are deemed to be public highways or grounds; but the record of changes in width, length, name, etc., are also important matters of record.[3]

The by-laws codified in 1865 fixed forty feet as the minimum width for new streets or extensions,[4] although the charter of 1861 granted the power to make sixty feet such a minimum;[5] but in 1874 the lesser standard was reverted to (37 Vic., cap. 51, sec. 167). The present by-laws have enacted that every new street shall be at least 80 feet wide, unless the council by special resolution shall decide otherwise, and provided that in no case shall the street be less than sixty-six feet.[6]

The mode established by amendment to the charter of 1840[7] for establishing the compensation due to proprietors whose lands were expropriated for streets and like public purposes was simple and effective and continued in vogue for many years. It consisted in voluntary agreement between the proprietor and the city, failing which, resort might be had to arbitration. In the last resort a jury was summoned by the justices in special session to determine the compensation by a majority of at least six (nine

[1] Édits et Ordonnances (1803) Vol. II. p. 170.
[2] 4 Vic. cap. 32, sec. 30 (1841).
[3] 52 Vic. cap. 79, sec. 211.
[4] By-laws (1865), chap. 29, sec. 2.
[5] 14-15 Vic. cap. 128, sec. 58.
[6] By-law no. 270, sec. 14.
[7] 4 Vic. cap. 32, sec. 32.

to agree). Later, the system of evaluation by three commissioners was adopted. In 1874[1] the city was empowered to acquire any land within its limit, for opening or widening public streets, squares or other public places. Commissioners were to be appointed by the superior court. The statute specified their qualifications and the procedure to be followed. At the same time the city was empowered to prepare a general plan of the city showing the streets, public highways, etc., of each ward, their width and alignment, and upon completion to present the same, ward by ward if necessary, to the superior court for confirmation or, as it was later called, homologation. The effect of the confirmation of the plan was to prevent proprietors from building or encroaching upon any new alignment of streets established in such plan, by denying them any compensation for their buildings in the event of the city desiring to make a street of uniform width in accordance with the plan. The plans preserved the old streets but adopted an enlarged alignment in many cases. This was quite feasible when a street was not wholly built upon, and in such a case the new buildings were required to conform to the new line as were the older buildings when rebuilt.

In accordance with the statute of 1874, therefore, plans of the different wards were prepared in the city surveyor's office, and at different dates during the next few years beginning with 1876 were submitted to the superior court for confirmation and were duly confirmed. This apparently simple and statutory method became in later years the means of extensive and costly expropriations which the city was forced to undertake by interested parties who, under the guise of carrying forward public improvements by street widening, secured the highest prices for their lands or buildings together with the satisfaction of ingenious claims for damages incident to dispossession of their property, such as deterioration of the value of the residues of land, loss of good will in business, loss owing to the interruption of leases with tenants, increase of rent to be paid elsewhere, and other like claims. To the claims of proprietors were added the claims of tenants who exacted compensation for eviction, increase of rent to be paid elsewhere, loss owing to interruption of business, the cost of moving and reinstallation. But this was not all. Pro-

[1] 37 Vic. cap. 51, sec. 167, *et seq.*

vision had to be made for the fees of legal attorneys and the special taxation of architects and expert witnesses summoned to establish these extravagant claims, too often allowed by commissioners who, as laymen, unskilled in exposing sophistry, and often sympathizing with the claimants, were incapable in many instances of determining true and just indemnities.

The charter of 1874, like those of 1851 and 1889, contained rules of procedure respecting expropriation, of a general character, in the event of immovable property not being acquired by agreement. The initiative under each of these Acts lay entirely with the city council. It lay with this body to say what lands should be acquired for public purposes. The records of the road department show that at least an equal number of acquisitions were by agreement as compared with those of legal process. In 1889, however, a system of quinquennial expropriations, reckoning from the year 1885, was authorized.[1] This permitted proprietors who had built upon the new line as shown in any duly homologated ward-map to obtain compensation for those portions of their lands which lay between the new and the old lines; but the whole cost of such improvements was laid upon the proprietors benefited thereby as determined by commissioners, and this commonly included the proprietors on both sides of the street affected. But the attractiveness of the scheme made its quinquennial character brief; in the following year (1890) it was made annual upon by-law passed by the council. The same statute, however, authorized the city to widen an extraordinarily large number of streets, and the city council, nothing loath, embarked upon a series of costly "improvements" which, combined with extensive street improvements of what was called a "permanent character" as distinguished from repairs, speedily involved the city in heavy indebtedness.

The legislature of 1890[2] not only made the quinquennial expropriation of occasional lands lying between the old and new lines of streets an annual affair, but "authorized" the city without any previous determination of the probable cost and without, as will be seen, in any way effectively limiting the cost in many instances, to make and execute a long list of important improve-

[1] 52 Vic. cap. 79, sec. 222.
[2] 54 Vic. cap. 78, sec. 2.

ments. The statutes of 1892, 1893, 1894, and 1896 all contained further extensive projects for street widening, not in themselves unnecessary, but all vicious in that the total cost was in no case previously estimated or determined and also because the legal expenses which the city was condemned to pay had not been provided for. The expenditure for street widening during nine years, 1888-1896, amounted to between seven and eight millions of dollars. Of that sum ($7,242,695) the city's original contribution was $1,634,412, but this was increased by legal charges and judgments to $2,685,883.[1]

The Council

Down to the time of the revision of the charter in 1851, the position of mayor does not seem to have been generally coveted, if one may judge from the provision of a penalty of £100 for non-acceptance of the office. In former charters a like penalty existed for councillors.[2] In the various charter revisions subsequent to 1851 these penalties completely disappear. It is to be noted that the municipal code applicable to the rural part still contains penal clauses for refusal to serve as councillor, warden or mayor.[3] The charter of 1851 continued the representation of three councillors for each ward.[4] The councillors elected nine of their number (one from each ward) to be aldermen. This honorific distinction between councillors and aldermen existed down to 1889 when the members of the city council were all styled aldermen. Another feature of the municipal elections which existed until 1899, the date of the latest consolidation, is worthy of note. Up to this time one-third of the council retired annually, although eligible for re-election. The mayor alone continued to be elected annually, although it was an unwritten law for him to be re-elected for a second term. The charter of 1899 provided that both mayor and council should all be elected every two years, the representation of each ward being reduced at the same time to two aldermen. In adopting the principle of a numerically small coun-

[1] City of Montreal, Annual Report, 1896.
[2] 14-15 Vic. cap. 128, sec. 16.
[3] Municipal Code, Arts. 117, 254, 334.
[4] 1 Wm. IV. cap. 54, sec. 17.

cil, American as contrasted with English precedent would seem to have been followed. As regards the length of term and the system of rotation the wisdom of the change seems very doubtful. It has been found that biennial elections afford a less effective check than the older system.

Montreal is divided into twenty wards or electoral divisions which vary greatly in area, population, number of voters and assessment. The areas range from 42 to 1,230 acres, the resident population from 439 to 40,631 and the number of voters from 847 to 7,237. The divisions are the outcome of various influences which have operated either singly or in combination, viz., population, nationality, class interests, condition of annexation and general policy, and are described in the following paper.

A property qualification is required of both mayor and aldermen, for the former an assessed value of $10,000, and one of $2,000 for an alderman. Its abolition has been proposed in and out of the city council. It would seem that such a policy could not well be made in Montreal alone, as property qualification is at the very basis of municipal representation and the provincial government would have to pass upon the question, not only for Montreal, but for the whole province.

The right to vote at municipal elections is dependent on the payment of all personal taxes, water, business, etc. This condition disfranchises over 30 per cent. of the electors and has occasionally met with great opposition. It has led incidentally to a rather curious anomaly. In three of the new wards recently annexed to the city, water is supplied by a private company; so that their electors, although they may be indebted to the company for water charges, are nevertheless entitled to vote, while the electors of the other wards, also in default, are deprived of their franchise.

The Harbour Board

The improvement of the harbour of Montreal as a port of shipment has long been not only a matter of municipal but of national concern. In 1830 a statute, entitled "An Act for the Improvement of the Harbour of Montreal," was passed and a board of three commissioners holding office for six years was the outcome. The magnificent stone quay, commonly called the

"revêtement wall," was built after the plans of Captain Piper, the work being begun in 1832.

In 1850 the board extended its activity beyond the harbour to the task of deepening the channel in Lake St. Peter. In 1855 the president of the Board of Trade and the mayor of the city were *ex-officio* added to its members. In 1873 the number of commissioners was increased to nine, five nominated by the Crown, one by the Board of Trade, one by the Corn Exchange, one by the merchant shippers, and the mayor *ex-officio*. In the meantime the river with its lights, buoys, pilots, etc., was under the care of the Trinity Board of Quebec. By an ordinance of the special council in 1839 (2 Vic., cap. 19), the Trinity Board of Montreal was constituted and the port of Montreal declared to extend from Portneuf on the east to the boundary line of Upper Canada on the west. In 1849 (12 Vic., cap 117) a new and amended Act was passed. In 1873 (36 Vic., cap. 61) Trinity House was dissolved and its duties were assigned to the harbour commissioner.

In 1894 an Act was passed by the Dominion Parliament amending and consolidating the Acts relating to the harbour commissioners.[1] The board consisted of eleven members, six being appointed by the Governor-in-council, the others being the mayor of Montreal *ex-officio*, representatives from the Montreal Board of Trade, the Montreal Corn Exchange Association, La Chambre de Commerce, and the shipping interest. The president received a salary of $2,000 *per annum* and the other commissioners were also remunerated. General and particular powers were defined by the Act, including the power to enact by-laws for the port. In a schedule annexed to 57-58 Vic., cap. 48 will be found a list of the various statutes affecting the harbour, pilots, Trinity House, the deepening of the ship channel, tonnage dues, wreck and salvage, etc. Other statutes affecting the board are the Act 59 Vic., cap. 10, authorizing the Governor-in-council to advance $2,000,000 to the board; the Act 61 Vic., cap. 47, authorizing a further advance of a like sum; 62-63 Vic., cap. 36, 1 Edward VII., cap 9, and 3 Edward VII., cap. 36, amending Acts. Since January 1st, 1907, the harbour commission consists of but three members appointed by the Dominion

[1] 57-58 Vic. cap. 48.

Government of whom the president receives an annual salary of $7,000 and his colleagues $5,000 each.

Public Schools

The public schools of Montreal are under two boards, one Catholic and one Protestant, entirely distinct from the municipal corporation, which simply collects the school taxes and hands over the amounts to the two boards. The Protestant board consists of six members, three elected by the city council and three by the Government; the Catholic board of nine members, three appointed by the Government, three by the council and three by the archbishop. So far, the nominees of the appointing bodies for the Catholic board have been two-thirds French, one-third English. The school tax is two-fifths of one per cent. of the city's realty assessment, and is apportioned into three panels, Protestant, Roman Catholic and neutral. The neutral panel, made up chiefly of stock companies, is divided in the proportion of the Protestant and Catholic population as established by the census. While the Protestants, claiming that most of the shareholders of these incorporated companies are Protestants, ask for another basis of division of these neutral taxes, the Catholics contend that all taxes should form a general fund to be distributed according to population.

The original constitution of these boards of school commissioners was fixed in 1846 by 9 Vic., cap. 27. This statute applied to the province generally, but special provisions governed the cities of Quebec and Montreal which may be traced in the Consolidated Statutes of Lower Canada, cap. 15, ss. 128-134. The composition of the two boards still stands as then enacted, viz., six members each, of whom the "Corporation" appoints three in each case. The system followed by the Catholic board affords a contrast to that adopted by the sister board in that a considerable number of private schools and schools directed by Christian fraternities and sisterhoods are subsidized, whereas the Protestant board controls its schools in every respect. By 32 Vic., cap. 16, sec. 17 (1869), the Lieutenant-Governor-in-council was authorized to name three commissioners and the corporations of Montreal and Quebec to name three other commissioners to constitute the board of school commissioners—the

same provision applying to both boards. For a number of years it was the custom of the city council to name distinguished citizens. The late Sir William Dawson for many years was a commissioner. But latterly the invariable custom is to name members of their own body.

General Observations

It will have been seen that Montreal's civic constitution is based upon the representation system and illustrates both the advantages and the disadvantages of that system. The advantages consist in public discussion of civic questions, the disadvantages in a minimum of practical efficiency. Many influential citizens, disgusted with the importation of fancied race and ward interests into matters affecting the general welfare, and the impoverished quality of public service owing to the system of aldermanic patronage, have openly proclaimed their preference for the abolition of the common council, and the constitution of a commission of three. But if chosen by popular vote it is not clear that such a commission would result in any higher average of capacity than now obtains; while if appointed by the Lieutenant-Governor-in-council, the loss to civic *amour propre* from the abandonment of the cherished right of the people to elect their representatives would prevent the system from attaining permanence. Constitutionally, therefore, the city government is likely to continue upon established lines; but until it passes the period of transition consequent upon its adaptation of itself to the new public utilities of the time, it would be the part of wisdom to secure some annual instead of biennial check upon her representatives, by providing for the retirement every year of a portion of the council.

Montreal is a sufferer from the unsightly, often dangerous, and usually monopolistic utilization of modern public franchises, electric tramways, lighting, telephones and telegraphs. Companies organized to exploit these utilities have obtained the necessary privileges from Legislature or Parliament, and often display scant concern for the quality of their service to the city notwithstanding their use of its streets and highways. Hitherto the companies, by successful lobbying, have been able to prevent hostile or regulating legislation.

An excellent illustration of the interference of the Legislature with municipal autonomy occurs in the charter of the Montreal Light, Heat and Power Co. (1 Edw. VII., cap. 66.) This company, incorporated with a capital stock of one million dollars, acquired the power to exercise the franchise and charter rights of other companies by lease or purchase, and a number of these being in existence, viz., The Royal Electric Company, The Imperial Electric Company, The Montreal Gas Company, The Lachine Rapids Hydraulic and Land Company, availed itself of its powers to unite in itself these various competitive companies. By section 10 the company acquires the right to enter upon the streets and construct under or over the streets or public highways, within a radius of one hundred miles from the city, all such pipes, lines, conduits and other constructions as may be necessary for the purpose of its business. By one of its by-laws (No. 343), which requires the placing of wires in underground conduits, the city sought to prevent the company from erecting poles in one of the streets by suit before the Recorder's court. The foregoing statute was pleaded, and, although the city has succeeded before the courts of first instance so far by showing that poles could not really be "necessary" where conduits are possible, the distinction is certainly fine, and the scope of the statute shows broad interference with the city's powers of control.

At the present moment a keen struggle is going on between the Montreal Light, Heat and Power Co. and an influential portion of the citizens with reference to the renewal of existing contracts for supplying gas and electric lighting to the city. The issue is one of price, and it is not improbable that the Legislature, which has been appealed to, may give the popular voice a chance to be heard by referring the dispute to a referendum. In fact, as we write, the Legislature is considering, and will doubtless approve "An Act concerning the granting of certain privileges, rights and franchises by municipalities," introduced by the Prime Minister of the province.

The Legislature of the province of Quebec has enacted a Cities and Towns Act (1903), containing general clauses applicable to cities and towns not incorporated under special charters or statutes. But Montreal, in common with most of the large towns

and cities of the province, possesses its special charters and is not affected by any general Act of the kind. Yet the Legislature is constantly appealed to, to revise or increase the city's local authority. As already remarked, this is partly due to custom, but chiefly it may be to that procedure being the line of least resistance in view of local differences of opinion and alternative litigation. The faith in legislative authority to do or undo becomes at times even amusing. But if local government is to be a success, the frank recognition of a rational division of powers between province and municipality is essential.

THE CIVIC ADMINISTRATION OF MONTREAL

BY

THE HONOURABLE PAUL G. MARTINEAU

JUDGE OF THE SUPERIOR COURT FOR THE PROVINCE OF QUEBEC

Committees

Two clauses relating to the government of the city are to be found in all the Acts consolidating or revising the charters of Montreal. One declares "*that the administration of its affairs* is vested in the council," the other enacts "that the council shall appoint each year from its members as many committees as it may deem necessary *for the supervision of the administration* of the several civic departments for which they are respectively named." From these it is clear that the council is the administering body while the committees are simply supervising ones. Only the first has power to determine policy, the others are appointed to see that the policy is properly carried out. Yet the system in force for many decades, and accepted by all as necessary and inevitable, confers on the committees the practical administration of civic affairs, without, it is claimed, violating the law. It is considered that, when appropriating a given sum, say, for street watering, the council decides that the street shall be watered, and that the road committee in watering the streets with the amount so voted is but supervising a work ordered by the council. The distinction, subtle as it may appear, is nevertheless a real and fair one, the mandate being general instead of special. Absence of instructions from the council when authorizing expenses gives large discretionary powers to the committees in spending. The result is great diversity in administrative rules and methods. One committee may execute all its works by contract, others by day work; one will invariably call for public tenders, another will be satisfied with private ones; one will call for tenders only when the charter or by-laws make it imperative, others will invite competition under all circumstances; one will buy its material from wholesale merchants, others from the retail trade; one will use cement of a certain brand, another will use for the same purpose a different one. Whatever one may think of results it is certain that some uniformity of practice would be preferable.

The standing committees are ten in number: finance, roads, water, police, fire, markets, incineration, hygiene, parks, and city

hall. Each committee has seven members—a rather large number for the expedition of business. By the terms of the charter the members of the finance committee cannot form part of any other permanent committee. It is an unwritten law, moreover, that the members of the roads committee, and the chairmen of the most important committees, are appointed to but one committee, in order that no member should possess an undue influence over his colleagues. This rule could be applied with equal if not perhaps greater advantage to every alderman.

The finance committee is the most important. It is specially created by the charter, whilst the others are established by by-laws. Its statutory powers consist in the preparation of the annual budget and the examination of all demands for appropriations of money. The finance committee may recommend or refuse any appropriation by a mere majority of members present at the meeting where they are submitted. Its decisions can be overridden only by a majority of all the members of the council. Under the charter originally framed, a vote of three-fourths of the members of the whole council was required. The provision that no member of another standing committee could sit on the finance committee aimed at confining the powers of the finance committee principally to financial matters, making it a sort of Board of Control, whose members would be relieved from the cares and influences of patronage. It has, however, been deliberately ignored in that the financial committee has not done away with the financial powers of other committees. On the other hand the finance committee deals, by formal consent of the council, and sometimes without it, with many objects not mentioned in the charter, such as collection of the revenues, nomination of all subordinate clerks employed in the collection and assessment departments, city clerk, law departments, loans and insurance matters. Many indeed believe that the powers of the finance committee might with advantage be restricted to the voting of credits, and a permanent revenue committee be entrusted with its other financial powers.

Next in importance to the finance stands the roads committee. Outside of the laying of water-pipes, which is done by the water committee, and of matters relating to the removal of garbage and scavenging, done by the incineration department, the roads

committee may be said to have supervision over all matters affecting the streets of the city, including the public franchises.

The roads, water and incineration departments clash at times with one another, though attempts to effect a consolidation of the three in a public works department have so far been futile. The great stumbling-block seems to be the fear of losing patronage. Similar considerations successfully prevented the appointment some years ago of another permanent committee to be entrusted with the different municipal shops and stores. The other committees do not call for any special remark.

Each committee forms a civic department with its own staff under the immediate supervision of a head officer, who himself is under the control of his committee. Heads of departments are appointed and dismissed by council. The dismissal of the comptroller, however, requires a two-thirds vote of the council. Subordinate clerks are appointed and dismissed by the committees, ordinary working men by the foremen. Constables and firemen are appointed by the committees, suspended or dismissed by the chiefs.

Departmental administration being left to the committees, they usually act only after receiving and considering the report and advice of the departmental heads. The views of the latter, however, are not always acted upon, though to them is entrusted the execution of the decisions come to. It must be admitted that much room is found here for aldermanic influence. Each department prepares an annual report which is printed in a "Municipal Gazette," as also in pamphlet form. These reports contain much valuable information to students of municipal affairs. They lack, however, as in most cities, comparative statements and statistics. If the "Union of Canadian Municipalities" could induce its members to agree upon a uniform system of reports and statistics it would confer a great boon on municipal administration.

Salaries of departmental heads vary from $1,700, which the superintendent of incineration receives, to $4,250 paid to the city engineer and the comptroller, $5,000 paid to the treasurer and to the city clerk, and $5,250 to the chief attorney. The salaries are, as a rule, higher than in any other Canadian city and considerably higher than corresponding salaries paid by the

federal or provincial governments, which might fairly be the criterion for all public salaries. In fixing the salaries, or in granting increases, there is no system followed. As a rule all depends upon the influence which can be brought to bear upon the aldermen.

Budget

The budget is voted in the month of December for the following fiscal year beginning on the first of January. The sums voted cannot exceed the combined amount of the realty, business and water taxes of the current year, plus the total revenue from other sources collected up to the first of December, to which is added the approximated revenue for December computed on the average receipts of that month during the last three years. The budget is thus fixed on the presumption that the revenue for any year will at least equal the revenues of the previous year. If there is a deficit it has to be made good in the following budget; if there is a surplus, it is available, when collected, for ordinary expenses. Since this system has been established surpluses have been the rule. Of the amount voted 2 per cent. must be reserved to cover any losses in the revenue and 3 per cent. for such unforeseen expenses as judgments, epidemics, inundations and damages caused by irresistible forces. This provision is often evaded and the reserve used for ordinary expenses.

Each committee prepares a detailed statement of the amounts required for its respective department, and these statements, the aggregate amount of which generally greatly exceeds the amount available, are submitted to the finance committee, upon which devolves the disagreeable task of making necessary reductions. Formerly the budget was first discussed by all the chairmen of committees. This practice gave good results, as the chairmen were more conversant with the needs of their department than many new or even old members of the finance committee who had never served on any other permanent committee. The present practice is to be deplored of appointing newly elected aldermen unfamiliar with departmental needs and not in a position to assess the reliability of the recommendations of the several heads of departments to this committee.

No payment can be made by the treasurer unless the comp-

troller issues a certificate that funds have legally been voted and are available for that purpose. An alderman authorizing an expense or payment in the absence of an appropriation for it is liable to be disqualified. The practice, however, is not uncommon and thus far no penalties have been exacted.

While each committee is voted an annual appropriation it cannot award a contract for over $1,000 unless it calls for public tenders and the award is ratified by the council. This rule is also eluded by giving several small contracts in place of a single large one.

Revenues

The principal sources of revenue are real estate and business taxes, water rates, licenses, special taxes and fines. The chief tax is the assessment on immovable property, limited to one per cent. Water rates come next in importance. They are fixed at 5 per cent. on the yearly assessed rental value of all buildings or part of buildings occupied. The smallest amount paid for domestic use is $1.50, the largest $225.00. This tax may be paid in two instalments; in case of non-payment the water is turned off, except where there are conditions of real distress. The non-payment of the water tax as well as the non-payment of all other personal taxes is a cause of disfranchisement, as has been pointed out by Mr. Weir. This is a relic of an antiquarian legislation which should disappear from the charter of a city like Montreal.

The so-called "business tax" is imposed on all trades, manufacturers, financial or commercial institutions, premises occupied as warehouses or storehouses, occupations, arts, professions, or means of profit and livelihood, carried on or exercised by any person in the city at the rate of 7½ per cent., which cannot be exceeded, of the annual rental value of the premises in which such trades are exercised or carried on. Keepers of clubs, inns, hotels, saloons or restaurants pay a special business tax, also based upon the annual assessed value of their premises, varying from $27.00 on an assessed yearly value of $160.00 to $1,627.50 on an assessed yearly value of $35,500.00. Special taxes and licenses are also levied. They range from $1.00 to $200.00 and include those imposed upon milkmen, bakers, carters, owners of horses,

employment bureaus, public laundries, private hospitals, real estate and all itinerant traders, billiard and pool rooms, real estate agents, pedlars, hawkers, auctioneers, pawn brokers, hucksters, junk and second-hand dealers, bowling alleys, shooting galleries, butchers' shops, banks, insurance companies. A discount of 2 and 3 per cent. respectively is allowed on business and water taxes, if promptly paid. This discount was at one time also allowed on the realty tax.

Warrants of seizure are issued from the Recorder's Court against the goods and chattels of parties in default with their business or water taxes. The immovable properties owing taxes are sold by the sheriff upon a written order of the city treasurer. This process is a summary, quick and efficient way of recovering the tax. The loss on the realty tax is about four-tenths of one per cent., on the business tax about 6 per cent., on the water tax about 8 per cent. The following table gives the amount of tax receipts for the year 1905 according to the different sources:

Assessments being 1 per cent. for municipal purposes, ¼ per cent. for Roman Catholic and ⅛ per cent. for Protestant school tax	$2,290,501 32
Water rates	911,520 13
Business and personal taxes	357,209 04
Licenses	204,688 75
Recorder's Court fines	43,186 37
Market revenue	100,761 59
Grocers' and innkeepers' certificates	7,312 00
Departmental permits	10,451 72
Street railway percentages	147,724 10
Terminal railway	317 30
Miscellaneous revenue	30,490 11
Interest collected	45,399 61
Total	$4,149,562 04

The realty tax shows the greatest elasticity. Between 1885 and 1905 it increased 153 per cent., as against an increase of 89 per cent. for the business tax and 87 per cent. for the water taxes.

The city's revenues have long been known to be insufficient for its steadily growing needs. But few have placed the problem of additional taxation squarely before the public. The easier road has been chosen of raising funds by charter amendments, book-keeping devices, disposing of public franchises upon terms amounting to a sacrifice of the legitimate assets of the suc-

ceeding generations, or by issuing fresh debentures in spite of the fact that interest charges are already the greatest burden on our revenues. It is highly advisable for the city to appoint an independent commission of competent economists to review the general system of taxation, and advise as to the ways and means for a larger tax roll. In the meantime one may remark that Montreal has been greatly hampered by not having any adequate system of local improvement assessments as in most other cities.

Public Debt

The public debt was consolidated in 1868, in 1888 and in 1889. The first consolidation was to the amount of $5,000,000, divided into three classes; two classes were perpetual and not redeemable, the other was for 25 years with a sinking fund of 2 per cent. In the consolidation of 1888, the city was authorized to apply the accumulated sinking funds, then amounting to $2,410,000, to reducing the civic debt, and to borrow for general public improvement to the extent of 15 per cent. on its real estate assessed value.

By 1899 the city debt, bonded and floating, had increased to $27,000,000, notwithstanding the above limitation. This was largely the result of a craze for expropriations, of extravagant, unauthorized and sometimes concealed expenses, and of a policy by which permanent improvements, that should have been paid in whole or in part by the proprietors, were carried out at the sole cost of the city. It seemed for a time that the progress and advancement of the city lay entirely in the widening of its streets. One after the other, they were widened at a high cost to the city, without regard to initial or ultimate financial considerations. If by chance the council would not agree at once to make the imaginary improvement, the Legislature would intervene and command the city council to undertake the work. Expenditures came to such a pass that more than once the appropriations voted to certain committees in December were exhausted before the end of January, in paying debts of the previous year.

Although $27,000,000 represented more than 15 per cent. of the assessed value of the real estate, it was not thought judicious to stop all borrowing powers, as such policy would have meant the suspension for many years to come of all permanent improve-

ments. Therefore during such time as the consolidated debt of the city would exceed 15 per cent. of the taxable real estate of the city, the city was given power to borrow each year, for the purpose of carrying on necessary public works, a sum of money not exceeding 10 per cent. of the increase in taxable real estate, shown by the assessment roll in force, over that of the year immediately preceding, provided that the sum so borrowed should not in any one year exceed $300,000. Under this clause $1,960,000 has been borrowed since 1899. Such limitations have made it necessary to confine civic expenditures to only urgent works. Next year, however, the bonded debt will have again reached its normal percentage and many long desired improvements will be made. It is to be noted that the city will not be thereby any richer, and that the additional interest charges will have to be paid out of a revenue already insufficient.

The city is not absolutely estopped from borrowing. It may borrow any amount and for any purpose, subject to its levying a special tax on realty to cover the interest and provide a sinking fund sufficient to redeem the loan at maturity. The by-law must further mention the objects for which the loan is made and be approved of by a majority of the members of the whole council and ratified by the ratepayers. Only one such by-law was ever passed by the council and submitted to the public. It was to equip the fire service on the lines suggested by the expert of the Underwriters' Association. The referendum was in this instance a complete failure. Not one in a hundred of the electors went to the polls. In the ward most directly interested, where the electors are amongst the most influential of the citizens, the percentage of voters was so small as to be ridiculous: four electors out of two thousand registered their vote!

The city may also issue temporary bonds for the proprietors' shares of the costs of the few public improvements that are chargeable to them until such time as the special assessments are collected. In 1905 there was $644,120 due to the city under this heading.[1]

[1] Whether loans should be made through a broker or directly by the city treasurer is a question warmly discussed whenever it is presented to the council.

Municipal Works

The varied work of the road department, with the exception of the construction of sewers and of street paving, is done under the direct supervision of the department. The city is divided into two parts, east and west, with a head foreman for each division and a sub-foreman for each ward.

There are about 200 miles of street, 32.70 miles being paved with permanent material: asphalt, granite, scoria and wood. "Rock" asphalt was previously used, but has been replaced with "Trinidad." And now "Trinidad" may be replaced by Bermuda asphalt. Montreal has been very unfortunate with its street paving. Original contracts called for a 15 years' guarantee, the last for one of two years only. The city operates an asphalt plant for its own repairs, as well as a fine workshop for the manufacture of most of its tools, etc.

There are 70 miles of permanent sidewalks. It is only during the last few years that such sidewalks are being actively laid. Formerly the city could lay them only with the consent of the fronting proprietors, who were liable for one-half the cost. Their consent is no longer necessary. The defective clearing of sidewalks in winter had been the occasion of many lawsuits against the city on account of accidents. This led finally to the experiment of the city taking charge of the cleaning. The work was in every respect satisfactory, the special tax small, and the assessed parties well-to-do proprietors; but petty objections as to the validity of the by-law led to its being rescinded.

Sewage empties into the St. Lawrence river, but one ward is drained to the other side of the island into the Rivière des Prairies. The system of sewers is as yet unequal to the work demanded and is the cause of many suits for damages.

The water supply of the city, with the exception of three wards, is under the control of the municipal administration, which owns the aqueduct and imposes a rate or tax for payment. The three wards (formerly suburban towns) are supplied from a private company, the Montreal Water and Power Company. As in the case of all old cities, the aqueduct of Montreal had a very modest beginning. Towards 1800 the water from springs was diverted from Mount Royal and distributed through some of the streets of the city in wooden pipes. In 1815 this precarious supply was

replaced by a system of distribution of water pumped from the river and raised into tanks containing 240,000 imperial gallons. In 1845 the city bought this system from a private company, after which an epoch of progress was begun by the construction of a reservoir containing 3,000,000 imperial gallons, situated outside of the city at a place called "Côte à Baron." In 1853 the city began an aqueduct capable of supplying 5,000,000 imperial gallons daily. The system included an open canal 4¾ miles long, having its entrance about one mile above the Lachine Rapids, at an elevation of 37 feet above the level of the harbour of Montreal. The dimensions of the canal were 40 feet wide at the water surface and 8 feet deep. This canal, throughout most of its course, is actually used to supply the city at present. The water was then raised to a reservoir with a capacity of 15,000,000 imperial gallons on the slope of Mount Royal. With the extension of the population of the city to the heights east of Mount Royal, too high to be supplied by the system, the present high level system became necessary. There is now a reservoir midway on the mountain slope, and a pumping station to carry the water from the low to the high level distributing service, 422 feet above the level of water in the harbour. The entrance of the aqueduct was afterwards carried 3,000 feet up the river.[1] The contracts entered into by the municipalities before their annexation for water service have already caused considerable difficulties. The fact that those franchises have yet over 40 years to run makes expropriation seem advisable.

If we allow 4 per cent. interest on the capital account of the water works, $9,305,433, namely, $372,217, and add the annual maintenance of $220,000 we have a total yearly cost of $592,217. Against this stands a revenue from the sale of water of over $900,000, which leaves a net profit for the city of over forty per cent. It is urged that in the beginning of the enterprise there were large deficits and that if all the accounts were balanced, the average profits to date would be very moderate. But the water rate is not to be regarded as the price of this commodity; it is purely and simply an ordinary tax, and looked at as such it must be admitted that it is a progressive tax of a radical kind. The per caput consumption of water in 1903 was 88.60 gallons daily,

[1] See *History and Description of the Montreal Water Works*, by George Janin, C.E., Superintendent, reprinted from Journal of New England Water Works, Vol. XVII.

in 1904 97.57, in 1905 103.87, including water for industrial as well as municipal purposes.

Tramways

The existing contract with The Montreal Street Railway Company was made in 1892, for a term of 30 years, at the expiration of which the city may acquire the property. In case the city does not exercise its option, the contract is renewed indefinitely for periods of five years. The rights granted do not constitute an exclusive privilege or monopoly within the entire limits of the city, but only in the streets where lines have been established, with a preference on some others, should the council decide to have tramways thereon. The establishment of new routes and the time of service is left to the initiative of the council. This clause is one of the few valuable ones in the contract. The regular fare is five cents, but ordinary tickets are sold at the rate of 6 for 25 cts.; special tickets in the morning and afternoon, 8 for 25 cts.; school tickets, 10 for 25 cts. Transfers are given on all lines.

The percentage to be paid the city on the gross earnings is 4 per cent. up to $1,000,000; 6 per cent. from $1,000,000 to $1,500,000; 8 per cent. from $1,500,000 to $2,000,000; 10 per cent. from $2,000,000 to $2,500,000; 12 per cent. from $2,500,000 to $3,000,000; 15 per cent above $3,000,000. The amount paid in 1905 was $147,724.10. But the city's share of the cost of removing snow from the tracks was $76,795.66, which left the trifling return of only $70,828.44.

Considerable litigation has followed this contract. The two principal cases referred to the removal of snow from the railway tracks and to the percentage to be paid to the city. The company claimed that its obligation ceased when it had thrown the snow by its ploughs out of its tracks on each side of the street, and that it was bound to pay percentages only on fares received to travel within the city limits and not on fares received to or from outside municipalities to the city, although the travellers' trip was a continuous one. The city won the first case and lost the second.[1]

For a few years there was also in operation a suburban company running a single line into the city. The conditions originally imposed were more favourable for the city than were those of

[1] The company has 14.29 miles of single track and 52.81 miles of double tracks.

the larger company. The small company was to keep its roadbed in good order, water its tracks, remove the snow entirely at its own cost, sell tickets during working hours at the rate of 10 for 25 cts. and pay a percentage to the city of one per cent. on all gross earnings under $100,000; 2 per cent. up to $200,000 and so on. Not proving as successful as expected it successfully petitioned the council to make the contract with it identical with the other. The new arrangement was immediately followed by a merger with the general system.

The "Terminal" franchise, as it is called, has provoked a most important and complicated debate. The Terminal has a federal charter as an ordinary railway and was authorized to construct and operate branch lines in such streets as the city should indicate, and upon such terms as it should decide. Application was made to the council stating that the company intended to operate branch lines and requesting the city to designate the streets where those lines should run, and the terms upon which they were to be so constructed and operated. The request of the company was taken into consideration, and finally a by-law was adopted granting to the company the right to establish and operate branch lines in certain streets by electricity only, and for the sole purpose of carrying passengers, but for the limited period of five years, the company being then obliged to remove all its rails, poles, wires and appliances, should the contract not be renewed; furthermore, the by-law was to become operative only if the company agreed by a notarial deed to accept all the conditions imposed in the by-law. The company did not sign the notarial agreement, but petitioned the railway committee for an order to construct and operate branch lines in the streets designated in the by-law. The city, of course, had no objection to offer, but insisted that the order should be given subject to all the conditions imposed by the by-law and the signing of a notarial agreement accepting them. The company met this answer by the following argument:

"The Terminal owes its franchise to enter within the city limits to the federal government and not to the municipal authorities: consequently the latter, although empowered to prescribe the terms and conditions that it may think proper for the construction and operation of our branch lines, cannot impose any time limit to unlimited statutory rights. The railway commit-

tee has therefore jurisdiction to grant a general order for the construction and operation of said lines and, much more, to increase the time limit to 20 years, as the five years' limit is not only illegal, but unreasonable."

To this argument the city replied in substance:

"The terms of the company's charter are not imperative, and the council could refuse to designate any street. If so, it could allow the construction and operation of branches for such length of time only as it thought proper. The limit may be reasonable or not, but the railway committee is powerless to increase it, as it should be powerless to grant any passage order, if the city had absolutely refused to consider the matter. Assuming, however, that the railway committee could legally act, it should not interfere in a matter of purely local interest, such as the establishment of tramway lines."

The committee did not pass upon the case, but adjourned its consideration for a few months, and in the interval the terms of the contract were extended to ten years and the company signed the notarial agreement above referred to. The application to the committee was then renewed, and the city again insisted that the order should not issue except subject to all conditions contained in the contract. This was agreed to, but as a matter of fact, by some misunderstanding, the order was made without any restriction. What will be the consequences of this omission? None, if the city's pretensions are well founded, many, if they are not. Not only would the order stand in perpetuity as all railway orders made under the railway Act, but all the restrictions imposed on the company, inconsistent with its charter or the railway Act, would be illegal, and the relations of the city and the company would be governed more by the federal law than by the contract, and adjudicated upon by the railway commission and not by the court. It is sufficient to expose these possibilities to show how careful all legislatures should be in dealing with municipal franchises, and how abnormal, if constitutional, it is for the federal government to grant to a railway tramway privileges within a municipality.

Gas

The present gas contract was given in 1895 for a term of ten years with an option of buying the plant. If the option was not

exercised then the contract was to continue for another five years. Gas for lighting was to be sold at $1.20 per 1,000 feet, for cooking purposes at $1.00.

Before this agreement was entered into, the city called for tenders, and awarded the contract to a commercial firm which afterwards sold out to the old company. Nothing was left for the city to do but renew negotiations with the old company. The result was a most unfavourable contract, considering the monopoly given and the prices permitted.

The first period of ten years expired on 1st November, 1904, and no notice of expropriation was given to the company, so that the contract will remain in force up to 1910.

During the existence of the contract no person or company can lay pipes in any of the streets and lanes of the city, not even for the sole purpose of furnishing gas after the expiration of the contract. Such monopoly clause should be declared illegal by the Legislature.

Electric Light

The contract for the electric lighting of the city has been let to the Royal Electric Company for a period of five years, beginning in 1904, at the rate, for all night service, of $60 per year per arc lamp of not less than 484 watts power. The price paid before to the same company was $120, but for a much stronger light. No provision was made in the contract for maximum charges to citizens, as in the case of gas. But in a contract lately offered by the council to the company, an exclusive privilege was first offered for gas and electricity not only for public but for private purposes, but the protests were so numerous and vehement that the clause was withdrawn. The new contract has been for the very long period of 23 years.

Conduits

Related to electric lighting is the question of under-ground conduits. Their construction is being forcibly urged on the grounds of public safety and the appearance of the streets. The solution of the problem is not easy. The following desiderata appear incontestible:

1. There should be one conduit for the low, and one conduit for the high tension wires, common to all the companies, what-

ever may be their statutory power to construct separate and private conduits for their own use. This would not be infringing upon vested rights, but simply regulating them, as the highest court of the United States has decided in the New York cases:

"The scheme of these statutes was not to annul or destroy the contract rights of such companies, but to regulate and control their exercise. They did not purpose to deny them any privilege theretofore granted, but they did require that they should be exercised with due regard to the claims of others, and in such a way that should cease to constitute a public nuisance and should be enjoyed in such a manner as to inconvenience and endanger the general public as little as possible." (Ruger, C.J., *The People* v. *The New York Electric Lines*).

2. All connections should also be under-ground. No half measure should be allowed.

3. The city should own and operate the conduits, which should be constructed so as to give the most improved and equal facilities at fair rates to all existing companies and provide accommodation for all probable competitors in the future.

Acting upon these principles, the city applied to the Legislature for the necessary powers, but its demands were refused.

In the proposed agreement, which was before the council a few months ago, the company contracting for the gas and electric franchises would have had to put all wires underground in private conduits, and remove all poles. Lately competition has come from an unexpected quarter. Even if it is not a full and free competition it will be strong enough to afford relief to many. Numerous parties producing electricity for their own use have begun to distribute their surplus to their immediate neighbours, and they are now asking permission to cross one or more streets by underground conduits in order to increase their sale; their wires outside of the conduit being stretched along private properties.

Telephones

Two telephone companies are operating in Montreal, but without any municipal franchise. The rates of the Bell Company, by far the largest of the two, are $30 for residence and $50 for business telephones. The Merchant's Company charges $25 for either residence or business telephone. The general consensus of opinion is that two telephone companies are a nuisance.

Abattoirs

Another franchise constituting a direct monopoly for the sale of cattle and a practical monopoly for their slaughtering was created in 1881 and 1885. In 1881 the slaughtering houses were in such number within the city limits that they constituted a menace to the public health, and as it seemed impossible properly to regulate them, their abolition was decided upon (by-law no. 129) as soon as public abattoirs were established. No abattoir, however, could be recognized as a public abattoir unless built outside and yet within three miles of the city limits. A company then built two abattoirs at either end of the city. The steady opposition of the butchers made the enterprise a failure, and the properties were sold first to the city and then transferred to another company with the consent of the Legislative Assembly (48 Vict., ch. 67), the city promising to enforce rigorously the by-law of 1881 and agreeing not to allow the cattle to be sold outside of the market which was to be established at each abattoir. In 1903 the company waived part of its rights, which were transferred to another company for a period of 26 years.

At the last session of the Quebec Legislature it was enacted, as an outcome of the proposed gas and electric contract, that all franchises granted for a longer period than ten years should be first submitted for the approval of the people.

Extensions of the City's Boundaries

The surrounding municipalities, at least most of them, have disposed of their local franchises. Water supply, gas, electricity and tramways have been assigned to companies with exclusive rights for periods running between 25 and 50 years. The granting of these franchises with a view only to the present needs of those municipalities will most probably prove a serious obstacle in the near future to the advancement of Montreal, when these municipalities, voluntarily or not, join the city proper. To improve a service which will then be inadequate, to make it uniform with the ordinary service of the city, new concessions, new contracts, new extensions will be necessary, and thus monopolies may become more and more troublesome.

The annexation of all the suburbs has become one of the most difficult problems of the municipal life of Montreal. With few

exceptions these municipalities are plunging into debt, in some cases even borrowing from year to year money to pay the costs of their ordinary administration. They make improvements with little serious regard for the future, give liberal bonuses to manufacturing concerns, grant to others tax exemptions, expecting that Montreal will finally pay these heavy obligations while they will enjoy the benefit accruing from the neighbourhood of large industries. When their taxes are about to be raised to the Montreal level and their credit is exhausted, they apply for annexation, and Montreal cannot but take them in.

General Considerations

Montreal, with 34,966 inhabitants of English origin, 37,077 Irish, 18,108 Scotch, 163,034 French, 2,911 Germans, 1,633 Italians, 4,932 Jews; with 202,091 Catholics and 53,595 Protestants; with the French living principally in one part of the city, the English in another, and the Irish in another; with enough of each nationality in each ward to keep the balance of power and to materially affect the result of the elections; with most of the industrial capital belonging to the minority, the labouring forces to the majority, Montreal occupies certainly a unique position. The following words of Professor Edward J. James, in an address before the National Conference for good city government in Minneapolis, in 1894, are here particularly apt: "The mixture of many nationalities, the lack of homogeneousness in the population has made the problem of city government infinitely more difficult than it otherwise would have been. You may take good elements from half a dozen different populations, throw them together into one political community, and immediately a new set of difficulties in the government of that community will arise from lack of homogeneity of political ideas and of intellectual sympathies." These conditions exist in Montreal, and explain many otherwise incomprehensible phases of its annals. Traces of nationalism are found everywhere, in the charter, in committees, in the distribution of patronage, in general administration, in the press, coming unsuspectedly to the surface and again disappearing under the influence of tolerance and tact. In the charter the wards are not specially classified as French, English, Irish or mixed, but their boundaries

were fixed so as to arrive *de facto* at this very classification, and no change would be permitted which could materially affect the racial character of the representation. More than that, as the English or French minority in some wards was sufficiently strong to elect one of the two aldermen by combining their votes on one person, cumulative voting was specifically prevented. The charter provides that the minutes of the council must be written in both French and English. Half of the civic assessors must by law be Catholic, the other half Protestant. On the committees it is conceded that all must have French majorities; that certain chairmanships must be French, such as those of the committees on finance and roads; that the minority must be represented on all the committees and on certain ones, as in that on finance, by three members; that the Irish must either have a chairmanship or a seat in the roads department.

As regards patronage, the chiefs of certain departments must be French, others English. Their assistants are also appointed with a view to perpetuating this representation or to reversing it, if in certain quarters it is found unjust. The number of appointments to be given to each nationality is sometimes mathematically fixed in certain committees, for the police and the fire brigade, for example, one-third English, two-thirds French.

Differences of opinion will also happen which can be explained only by the particular genius and training of each nationality. But votes are often given in council and in committee strictly on racial lines for which no excuse can be offered.

An occasional source of friction results from the fact that the majority of the French reside in the eastern section of the city and of the English in the western, and nationality becomes identified with a locality. Whenever it is thought that a district does not get what is considered a fair share of the improvements, the inhabitants sometimes see in that evidence of ill-will against their nationality. All civic employees are supposed to speak both languages sufficiently for the special purposes of their occupation. Addresses to royal or political personages are read in both languages, and the answer thereto is expected to be in both.

During the years 1840, 1841 and 1842 the council was composed of 11 English-speaking and 7 French-speaking aldermen.

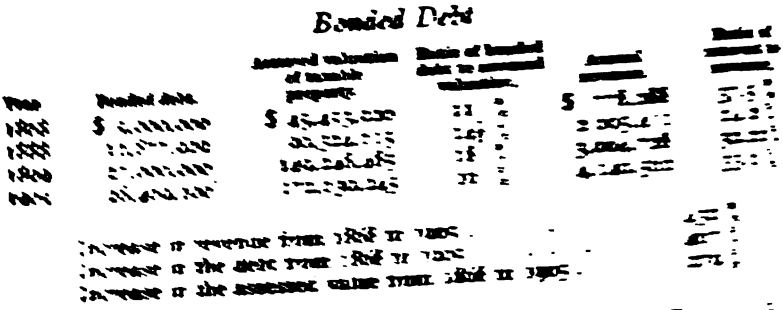
In 1843 and 1844 the proportion was 9 English and 8 French. In 1845 a redistribution of the wards was made, the French representation fell to 5 and the English rose to 12. In 1881 the proportion was 15 English and 12 French. In 1882 one French alderman was elected in the centre ward hitherto represented by English aldermen. The fight was memorable in that this change was followed next year by the election of another French alderman in the same ward. Since that time the French have been in a majority that has been considerably increased by annexations.

Instances of federal interference with local government have happily been few and have been restricted to telephones and tramways. The danger of such interference has been pointed out when discussing the street railway problem. Interference at the hands of the province with most unfortunate results has been very noticeable. In fact the financial crisis through which the city has passed and the burdensome clauses of the franchise compacts can be traced directly to provincial legislation. The Legislature has practically disposed of the local franchises, as well as taken into its own hands the administration proper of the city by ordering the municipal council to widen or extend streets or do certain other municipal work. It would appear as if a better feeling is growing in Quebec as well as a healthier conception of provincial powers and municipal rights.

Ratio of Certain Yearly Ordinary Expenses to the Total Yearly Ordinary Expenses

	1902	1906	
Interest	33.42	28.16	per cent.
Schools	10.41	14.14	"
City Clerk and staff	0.37	0.29	"
Law office, permanent salaries and general administration	0.54	0.55	"
Assessment office, including voters' list	0.72	0.69	"
Collection of revenue	3.88	1.10	"
Roads, no permanent works	11.80	14.80	"
Police	8.75	9.20	"
Fire	6.01	7.38	"
Lighting	3.98	2.71	"
Water-works	4.21	4.58	"
Markets	0.71	0.68	"
Removal of garbage and incineration	2.70	2.19	"
Hygiene	1.31	1.78	"
Parks	1.10	1.13	"

Bonded Debt



CITY GOVERNMENT IN OTTAWA

BY

FREDERICK COOK

Bonded Debt

Year.	Bonded debt.	Assessed valuation of taxable property.	Ratio of bonded debt to assessed valuation.	Annual revenue.	Ratio of interest to revenue.
1868	$ 5,000,000	$ 45,453,920	11 %	$ 778,288	37.5 %
1888	12,877,929	90,324,615	14⅓ %	2.095,411	24.2 %
1899	27,000,000	149,248,485	18 %	3,004,728	32.22%
1905	28,469,100[1]	172,630,245	16 %	4,140,562	33.6 %

Increase in revenue from 1868 to 1905 ..... 432 %
Increase in the debt from 1868 to 1905..... 467 %
Increase in the assessed value from 1868 to 1905..... 279 %

Statement Showing the Amount of Assessment for Immovable, Business and Water Taxes, and Percentage of Increase

Year.	Immovable tax assessment.	Increase on previous year.	Business tax assessment.	Increase on previous year.	Water tax assessment.	Increase on previous year.
1885	$ 888,124		$194,134			
1890	1,210,946	36%	246,049	21%	$870,730	
1895	1,697,565	40%	281,089	14%	915,176	5%
1900	1,816,710	6%	287,266	3%	924,000	0.97%
1905	2,251,049	23%	365,731	27%	958,549	0.81%

Immovable tax : increase from 1885 to 1905 .....153%
Business Tax : " " " " 89%
Water tax : " " " " 8%

Ratio of the Revenue from the Three Principal Taxes to the General Revenue

Year.	Real estate tax.	Business tax.	Water tax.
1895	59%	9%	23%
1900	56%	8%	22%
1905	55%	8%	21%

[1] The latest issues bear interest at from 3 to 4 per cent.

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CITY GOVERNMENT IN OTTAWA

Half a century ago the question of the seat of government of the united Canadas was one of the paramount political issues, and for nearly a decade it remained one of the principal topics of public discussion. It will be recalled that the Act of Union of 1840 which united Upper and Lower Canada empowered "the governor of the Province of Canada for the time being to fix such place or places within any part of the Province of Canada and such times for holding the first and every other session of the Legislative Council and Assembly of the said Province." Kingston, which was selected as the first place of meeting,[1] was replaced in 1843 by Montreal. Because of the Montreal riots of 1849, Parliament assembled thereafter alternately at Toronto and Quebec.[2] Finally, in 1857, by resolution[3] the selection of a permanent site was placed in the hands of Her late Majesty Queen Victoria, the mayors of Ottawa (then known as Bytown),[4] Toronto, Kingston, Montreal and Quebec being invited to present a memorial of the advantages which their respective constituencies might offer as the permanent seat of government. Though Her Majesty's selection of Bytown became known early in 1858[5] the Canadian legislature did not formally acquiesce for another year.[6] The advantages of the site selected became more apparent as time passed. At a safe distance inland, on the borders of the two provinces of Upper and Lower Canada, and on a picturesque site at the junction of the Rideau canal and the Ottawa river, the selection has proved to be wise. Bytown, which was incorporated in 1847, was re-incorporated as the city of Ottawa on Jan. 1st, 1855, when rail connection had been opened with the St. Lawrence. Parliament met for the first time there in June, 1866. The population of the city in 1857 was 7,760; in 1867, 18,700; in 1907, 69,756.[7]

[1] Journals Legislative Assembly, 1843, pp. 88-90. The motion was presented by Attorneys-General Baldwin and Lafontaine.

[2] Bourinot, in his "Canada under British Rule," p. 189, says: "The Legislature met alternately at Toronto and Quebec every five years." This is not borne out by the Journals of the Legislative Assembly. The statement should be "every four years."

[3] Journals Legislative Assembly, pp. 133, 185.

[4] Ottawa *Tribune*, April 16th, 1857. There are no minutes extant of the early city councils.

[5] Communicated to the Legislative Assembly by Sir Edmund Head, March 16th, 1858. Journals Legislative Assembly, p. 139.

[6] Journals Legislative Assembly, 1859, p. 10.

[7] From return to City Council by Assessment Department.

Municipal Organization

The city was originally divided into five wards with two aldermen and two councillors for each. From the year of Confederation the title of councillor was dropped, and the wards have since been each represented by three aldermen elected yearly. The annexation of outlying municipalities occasioned the re-distribution of the boundaries of the existing wards in 1890, and the creation of three additional wards, making eight in all. The present area of the city is 3,365 acres.

In the days of Bytown, and in the early years of Ottawa, the mayor was selected by the members of the council. He is now chosen, as in other Ontario cities, by the direct vote of the electors. It is customary to re-elect him if his first year's administration has been acceptable; and three-year terms have not been infrequent. In 1903 his honorarium was increased from $1,000 to $2,500 a year. The aldermen are not paid, but at the last municipal elections the electorate pronounced in favour of the establishment of a Board of Control, and the reduction of the number of aldermen in each ward to two. Under these circumstances provision is made in the municipal Act to pay the controllers an annual fee not exceeding $400 each.

There are seven standing committees of the council, viz., Finance, Board of Works, Waterworks, Fire and Light, Property, Board of Health, and Public Library. The first five consist of one alderman from each ward. The Board of Health is constituted under the provisions of the Ontario Health Act. The Public Library Board, by special Act of the Legislature, is composed of the mayor, eight aldermen, and three citizens, not members of the city council. Its constitution is a departure from the practice in other Ontario cities; though the change cannot be commended as against the general plan laid down in the Ontario Public Libraries Act.

The indeterminate relations of the city and the federal authority are a source of frequent trouble. For example, there are two police forces, the Dominion police, whose duty it is to protect the parliament and departmental buildings, and the city police proper. When joint federal and civic interests are involved the two organizations work in harmony, but the situa-

tion is anomalous. Parliament is a law unto itself; it holds that on federal property its members are superior to provincial and municipal supervision. The federal force is an adjunct of the Department of Justice; the city force is governed by the customary police commission, the county judge, the police magistrate and the mayor, as provided by the municipal Act. Repeated efforts have been made by the council to secure direct administration and control of the city police, but the Ontario Legislature has steadily rejected the request.

Water Supply

The present waterworks system developed out of plans submitted by Mr. T. C. Keefer, C.E., in 1859. Works as then proposed were to cost not more than $300,000 and were to utilize the water power of the Chaudière Falls in the Ottawa river above the city. Definite action was taken only in the year 1871, a board of five water commissioners being appointed in the year following to take charge. By 1876 some $914,000 had been expended. In 1879 (May 1st) management by the board gave way to control by a committee of the council. Since then the plant has continued to develop until over $1,600,000 has been expended to date on capital account. The system is that of direct supply, the water being pumped without any intervening reservoir. The in-take for the supply of water is situated some 3,000 feet above the Chaudière Falls, so that an unlimited supply of pure water is assured.[1]

Lighting

The city operates its own lighting plant, in active opposition to a private enterprise. That Ottawa was allowed to enter the field in competition with a private company is explained by the fact that in 1894, years before the Conmee Act which governs such matters in Ontario, the city secured authority to expend $250,000 in the establishment of a lighting plant. Although an exceptional situation, the action of the municipality, under the circumstances, may be independently justified, as it prevented the consummation of a monopoly of the lighting business of the city

[1] The early history of the Ottawa waterworks is taken from an able report by T. C. Keefer, C.E., C.M.G. Later figures from City Engineer's report, 1906.

in the hands of the Ottawa Electric Company, and saved probably $150,000 or $200,000 annually to the users of electric light.

It was in 1905 that the municipality took over the plant of the then junior lighting concern, the Consumers' Company. The two companies, the Ottawa and the Consumers', ever since the incorporation of the latter in 1901, had been engaged in a war of rates, by which the householder benefited. Early in the year 1905 there were indications that the two companies were coming together; that the greater was about to absorb the lesser. Legislation was submitted to the Dominion Parliament to enable the Ottawa Electric Company to secure the property and franchises of any existing company, and, in spite of the protests of the city corporation, the bill passed the House of Commons. The city council thereupon decided to take advantage of a clause in the charter which it had given to the Consumers' Company, by acquiring the plant of that company, the purchase price being fixed at $200,000.

The property of the Consumers' Company accordingly passed into the hands of the city on May 17th, 1905, and its operations have since been fairly successful. Up to May 31st, 1906 (ten and a half months) under municipal management, the receipts were $47,828 and the expenditure $47,002, leaving a net profit, after paying interest and sinking fund charges, of $826. For the succeeding six months ending 30th November, 1906, there was a deficit of $2,659, which is explained by that period including three months of the year during which there is the lowest consumption of electric light. For the half year, ending 31st May, 1907, the receipts were $41,827, expenditure, $34,776, net profit $7,050.[1]

Since the city took possession of the Consumers' plant the business has greatly increased. On July 17th, 1905, there were 1,314 customers; on November 30th, 1906 ,the number was 2,173; on May 31st, 1907, the total was 2,395. The number of incandescent lights for the same period had gone up from 28,160 to 46,730. The amount of business done by the civic lighting plant is, however, far behind that of the Ottawa Electric Company, which reports 9,031 customers, 155,000

[1] From reports of Municipal Light Commission to City Council, 1905-6-7.

incandescent and 1,378 arc lamps in use.[1] Both the city and the company charge the same rate, 12 cents for 1,000 watt hours, with a discount of forty per cent. for prompt payment. The city makes the rate and the company meets it. Meanwhile poles and lines are being duplicated along the streets and in every section of the municipality, to the disfigurement of the city.

The Street Railway

The genesis of the present effective street railway service in Ottawa dates back to 1866, when a number of citizens were incorporated as the Ottawa City Passenger (tram) Railway Company, and a single line of track was constructed from New Edinburgh to the Chaudière Falls. For nearly twenty-five years this was the only line in operation. In the early nineties came the movement for an electric road and the organization of the Ottawa Electric Railway Company.

The new railway was opened in June, 1891, and two years later came amalgamation with the City Passenger Railway. A new arrangement was then made with the city. In return for surrendering the perpetual franchise in the old tramway company a thirty years' franchise was given to the Electric Railway Company, terminable on August 13th, 1923. At the end of the thirty years the corporation may, on six months' previous notice, take over the railway, the purchase price to be determined by arbitration. At the time of writing the street railway mileage is 29.19 miles. The company pays the city annually $450 per mile of street occupied by its tracks, for the first fifteen years of its franchise, and $500 per mile per annum for the second period of fifteen years. On permanently paved streets it pays $1,000 per mile per annum for traffic on such streets. Last year, under this heading, its payments to the city corporation amounted to $11,131. During the winter the company has to remove the snow from all tracked streets from curb to curb, but leaving a sufficient quantity to furnish good sleighing, as may be stipulated by the city engineer. The railway, well managed and effectively administered, has been a marked success. The number of passengers carried during the first complete year of

[1] Figures furnished by the Secretary of the Ottawa Electric Company.

operation ending May 31st, 1893, was 2,394,504; the gross receipts were $110,071, with net profits of $39,850. For the year ending December 31st, 1906, the number of passengers carried was 11,408,422, with gross receipts of $525,746, and net profits of $180,684.

In 1904 the company was approached by the council to state upon what terms it would surrender the franchise given in 1893, and turn over its property to the citizens. The capital stock of the company is $1,000,000, with first mortgage bonds outstanding of $500,000. The answer of the company was—"That if an offer of $250 per share for the capital stock of the company is made by the city subject to ratification by by-law and legislation, the board of this company will agree to recommend to the shareholders the acceptance of the offer, payment to be made in city of Ottawa four per cent. bonds." With the mortgage indebtedness of $500,000, this meant that the city would have to pay $3,000,000 for the franchise and properties of the company. At the January elections in 1905 a plebiscite was taken on the question. Not more than forty per cent. of the qualified electors voted, 819 voting yea, and 3,497 nay. A favourable opportunity of acquiring the most valuable franchise in the city was thus let pass. On the basis of the business done by the company in 1906 and assuming that the same efficient management had been maintained under municipal control, the city would have been able to pay off its interest charges, amounting to $120,000, and make a clear profit on the year's transactions of $91,815. As it was, the company paid a dividend to its stockholders equal to twelve per cent., and had a balance at profit and loss on December 31st, 1906, of $199,564. It may safely be surmised that the company will not repeat its offer, as the business of the railway is advancing by leaps and bounds. The company, it may be added, was the first electric railway company on the continent to solve the problem of heating cars in winter, by utilizing electricity.

The Gas Company

Ottawa was the first city in Canada, and one of the first on the continent, to adopt electricity for street lighting purposes; it was also among the first to utilize gas. The Bytown Consumers

Gas Company was organized in April, 1854, and the works were in operation within a year. In 1865 the name of the company was changed to the Ottawa Gas Company. Its business was materially cut into by the electric lighting companies. In 1892-3 the Imperial Continental Gas Association of London acquired a controlling interest and developed a more active business policy. New gas holders were erected and miles of new mains laid. In 1893 there were only 775 consumers of gas in the city; there are now over 4,000. Not five per cent. of the 775 consumers used gas for fuel purposes. To-day not more than twenty per cent. of the 4,000 consumers use gas for lighting. Realizing the difficulty of competing against electricity as an illuminant the company has made a special effort to dispose of its product for cooking purposes, and in this respect has been eminently successful. Recently (1906) it has sold its control to the Ottawa Electric Company, and in 1907 the consolidation of these two important concerns was carried out.

Civic Finance

The total civic revenue for 1906 was $630,742; the expenditure $27,827 less. The city's debt stands at $7,421,907, sinking funds at $2,622,004, other property bringing the total assets up to $6,094,504. The general tax rate was 14 mills on the dollar, a collegiate institute rate of 6-10 mills, a public school rate of 6 mills, and a separate school rate of 8½ mills.

In 1878 the Legislature permitted the city to renew its bonded indebtedness for a period of twenty years, but limited future taxation for general purposes to fifteen mills on the dollar. This arrangement was unfortunate, as the city is now paying a higher rate of interest on the renewed debentures than would have been the case had they been retired in the usual course. The city's debentures carry interest at from six to three and a half per cent., the average rate paid to-day being slightly over four per cent. As an indication of the standing of Ottawa's debentures it may be mentioned that on the last call for tenders for $326,000, in 1905, a premium of 70 cents and accrued interest was obtained for four per cents.

Of the eight largest cities in Canada the following figures show that Ottawa has the smallest net debt per head of popula-

tion, and the smallest debt in proportion to assessment, except Winnipeg. The figures are as follows:[1]

	Net debt per head.	Net debt to assessment.
Ottawa	*$30 05*	*5 76* per cent.
Kingston	32 10	7 52 "
Sherbrooke	34 74	9 17 "
Chatham	35 77	7 90 "
Sydney, C.B.	36 54	9 13 "
Winnipeg	39 83	5 17 "
Toronto	41 13	6 89 "
St. John, N.B.	41 64	8 12 "
Vancouver	42 15	7 48 "
Hamilton	42 35	8 37 "
Belleville	50 02	11 97 "
Halifax	54 42	8 86 "
St. Catharines	61 50	12 79 "
Montreal	64 43	11 84 "
Victoria	66 31	11 56 "
Quebec	94 36	33 88 "

Tax Exemptions

One of the serious problems with which the city has to grapple is that of tax exemptions. In no other Canadian city, in proportion to wealth and population, is there such a large amount of property exempt. The latest (1907) exemption returns are as follows:[2]

Churches	$ 1,318,525
Charitable institutions	605,050
Educational institutions	1,584,750
Miscellaneous	217,750
Federal property	11,349,300
City property	3,014,925
Total exemption, realty	$18,090,300

In addition there is at least one million dollars of Civil Service income not subject to civic taxation, or a grand total exemption of $19,090,300. With this is to be compared a total taxable assessment of only $41,318,150 in 1907, and $43,354,450 for 1908.

[1] Figures from "Municipal Debts Statistics, Canada," published by John Mackay & Co., Toronto, December, 1906. Of the eight largest cities in Canada it will be seen that Ottawa has by far the smallest net debt per head in proportion to assessment except one city—Winnipeg.

[2] Assessment Commissioner's report, 1906.

It should be explained that in recent years the rapid development of governmental business has compelled the federal government to rent a large number of buildings in different portions of the city, a process which immediately reduces civic revenue. According to a statement presented to the House of Commons in 1906 the federal authorities were occupying eighteen separate buildings rented from private owners, upon which no taxes were being paid, involving a loss in taxation to the city of between $7,000 and $8,000 yearly. Protests by the city council have resulted in a promise that in all new leases of buildings for governmental purposes it would be stipulated that the owner of the building must pay the taxes to the city. Thus far the promise has been fulfilled only in part. As regards school assessments the division between the two school boards for 1907 is on the following basis:—

Public school assessment	$31,490,120
Separate school assessment	9,828,030
Total	$41,318,150

Although the Roman Catholic school population is larger than the Protestant the assessment of separate school supporters is less than one-third that of the public school supporters. Separate school supporters have accordingly to pay a higher rate. Thus the rate of taxation for separate school supporters for 1907 is $23.10 on each $1,000 assessment as against $20.60 for public school supporters. The number of children in the two classes of schools does not differ materially; thus in 1906 the number of children between the ages of five and twenty-one in the public schools was 9,160 against 9,216 in the separate schools. There are in all eighteen public and twenty-five separate school buildings. To the support of the Collegiate Institute all assessable property contributes, the rate for 1907 being three-fifths of a mill on the dollar.

Local Improvement Taxes

The federal authorities have so far declined to be responsible for local improvement rates except in special cases. They, however, maintain the canal bridge and the suspension bridge over the Ottawa. Refusal to contribute regularly to

local rates works out still more unfairly when the federal government purchases private property. Even if the government continues for a time the private leases the taxes formerly falling on the property must now be met by the general ratepayers.

The City and the Civil Service

Civil servants in Ottawa have the right to vote in municipal, provincial and federal elections. One class of civil servants alone is debarred from the provincial franchise, viz., "officers employed in the collection of duties payable to His Majesty in the nature of duties of excise." The point has frequently been raised that the disqualification refers only to the officers of the local Inland Revenue office, but the staff of the inside division of the Department, in order to avoid the penalties imposed by the Ontario Elections Act, carefully abstain from voting. The belief is gaining ground in Ottawa that where party politics are at issue (they do not play a part as yet in municipal affairs) it would be better if all civil servants, federal and provincial, were cut away altogether from the danger which they run of offending one political party or the other. As it is, probably not more than thirty per cent. of civil servants living in Ottawa exercise their federal and provincial franchises; but they take a more active part in purely municipal matters. The question whether the income of a civil servant is assessable or not was settled by the courts nearly thirty years ago, when it was decided that civil servants' salaries were exempt.[1]

The Improvement Commission and Its Work

In 1893 Sir Wilfrid (then Mr.) Laurier, in reply to an address presented to him by the Ottawa Reform Association, remarked that "when the day comes, as it will come by and by, it shall be my pleasure and that of my colleagues, I am sure, to make the city of Ottawa the centre of the intellectual development of this country and the Washington of the north."[2] This is the first reference made by the present First Minister of the

[1] For the judgment of the court see Cartwright's cases under the B. N. A. Act, vol. I., pp. 592-675.

[2] Toronto *Globe*, June 20th, 1893.

Crown to Ottawa as "the Washington of the north." On assuming the reins of office in 1896 he reaffirmed his previous statements regarding the improvement of Ottawa,[1] and the city council lost no time in furthering the cause. A special committee was appointed to prepare the city's case for submission to the government. In the year following (1897) a memorial was submitted to the Governor-General-in-council, setting forth the large expenditures made by the municipal corporation on public works and undertakings for the safety and convenience of the public and for the protection of federal property. Attention was also called to the large amount of federal property exempt from taxation. An estimate was made showing that on the ordinary basis of civic taxation this exempt property would yield an annual revenue for school and municipal purposes of at least $300,000. The large expenditures on fire appliances and water supply, largely for the more efficient protection of government property, were referred to. It was pointed out, further, that for water supplied to the parliament and departmental buildings, the Governor's residence and the experimental farm, the city received only $14,700 per annum, whereas if the government property contributed at regular rates for all the water furnished, the city would be entitled to receive $45,000, exclusive of that for the experimental farm. Reference was made finally to the large contributions by the governments of Great Britain, the British colonies and France towards the expenses of municipal government. After setting forth these facts the memorial went on to say as follows: "Your petitioners beg respectfully to represent that they are entitled to and should receive from the Dominion some assistance adequate to the value of the services rendered, and would respectfully represent that such assistance should be in the form of a fixed annual grant, in return for which the city will undertake to furnish an adequate water supply and provide efficient fire protection to all government property, and such other services as may be agreed on." It was suggested that the annual grant should be at least $50,000, and that, in addition, the government should maintain and control the local police force. In 1899 the federal Parliament passed "An Act Respect-

[1] Toronto *Globe*, August 6th, 1896.

ing the City of Ottawa,"[1] creating "The Ottawa Improvement Commission," with the following powers:

(*a*) To purchase, acquire and hold real property in the city of Ottawa, or in the vicinity thereof, for the purpose of public parks, or squares, avenues, drives or thoroughfares;

(*b*) To do, perform and execute all necessary or proper acts or things for the purpose of preparing, building, improving, repairing and maintaining all or any of such works for public use;

(*c*) To co-operate with the Corporation, or with the Board of Park Management of the City of Ottawa, in the improvement and beautifying of the said city, or the vicinity thereof, by the acquisition, maintenance and improvement of public parks, squares, streets, avenues, drives or thoroughfares, and the erection of public buildings in the said city or in the vicinity thereof.

An appropriation of $60,000 a year for ten years was voted, but no action was taken by the Government with reference to assuming the police control of the city.

The commission at first consisted of four members, three appointed by the Governor-in-council to hold office during pleasure, and one appointed by the corporation of the city of Ottawa. In the latter case, the mayor has invariably been the representative of the municipal corporation. In 1902 the number of commissioners was increased to eight. The office of commissioner is an honorary one, the only paid position being that of secretary.

The commission has done much to improve the city. A series of driveways with boulevards, parks and bridges has already been laid out, and in co-operation with the city several old thoroughfares have been repaired and improved. The federal government has also converted some of its reserve lands into parks. Agreements have also been entered into with the city to take over and maintain certain parks for definite periods. The recommendations made to the commission by its landscape architect (Mr. Todd) include the reservation of suburban parks, driveways and bathing places, as also of a forest park, but steps have not yet been taken to complete the latter.

[1] Statutes of Canada, 1899, chap. 10.

In 1903 the Act constituting the commission was amended by extending to 1919 the time for the payment of the annual grant of $60,000, and empowering the commission to borrow, on debentures bearing interest at a rate not exceeding 4 per cent., a sum not exceeding $250,000, to purchase land or carry out any scheme of improvement requiring a larger outlay than is available out of the annual income of the commission. The amending Act provides that the debentures are to be redeemed in equal annual instalments. Sixteen debentures of $21,455 each were accordingly issued, the first to mature on June 30th, 1904, and one each year afterward, the last being redeemable on June 30th, 1919. The debentures were deposited in the Finance Department, to be taken out and used as required. The total expenditure of the commission to June 30th, 1906, was $631,547.[1]

The æsthetic gain to the city has been most marked, but the city's contribution has also been substantial. Apart from federal exemption from local taxation of all kinds the city must also furnish, during the operation of the park commission, all water required by the government as well as by the Commission free of charge. The agreement made in 1899 reads in part as follows:—

"The corporation shall at all times, while such annual grant is paid, as provided in the said Act, furnish an adequate and sufficient supply of water for use in and on all buildings, lands and premises in the said city of Ottawa, now owned, rented, leased or occupied, or to be hereafter owned, leased or occupied, by the said government, and also for use in and on Rideau Hall grounds, and the Central Experimental farm and buildings thereon, and for use in and on all other buildings, lands and premises in the vicinity of the said city now or hereafter to be owned, rented, leased or occupied by the said government, and shall provide for the sprinkling of the streets in the front of such buildings, lands and premises, including the bridges in the said city of Ottawa, maintained by the said government."[2]

The immediate result was to cut off some $15,000 of civic

[1] From report on the work of the Ottawa Improvement Commission, December 21st, 1899, to June 30th, 1906, presented to Parliament.

[2] By-law No. 1956 of the corporation of Ottawa, passed October 2nd, 1899.

water revenue until then paid by the government. In this connection it is to be pointed out that this $15,000 was a special rate. Had the government been charged ordinary rates its water bill would have been about $50,000. Taken with the growing exemption of property through federal purchases and the increasing expenditures of the municipality, it led the city council in 1901 to present a memorial to the Dominion Cabinet for some measure of financial assistance. No action has as yet been taken. It was possibly these financially unsatisfactory relations that led many to cast their votes at the recent municipal election in favor of Ottawa being made like Washington into a federal district governed by a commission. It is significant that although the local press was largely opposed to the idea the plebiscite gave 3,630 for, and 4,431 against. The day may not be far distant when the figures will be reversed.[1]

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[1] Area of Ottawa ..... 3,365 acres
Population 67,572
Mileage of streets 101
" asphalt and stone set pavement 6.96
" bitulithic ..... .62
" tar macadam 2.63
Total mileage of permanent pavements 10.21
Mileage of water mains ..... 110.
" concrete walks ..... 124.
" sewers ..... 76.
" street railway tracks 29 19
" railway tracks in suburbs 17.45
" roadway occupied by street railway tracks 13.99
Number of steam railways entering city 7
Area of parks in city ..... 237.3 acres
Value of property owned by city ..... $ 3,014,920
" government property exempt from taxation 11,349,300
" other property " " " 3,726,075
" taxable property 41,318,150
" buildings erected in 1906 1,728,975

PRESENT CONDITIONS

BY

S. MORLEY WICKETT, PH.D.

SOMETIME LECTURER IN POLITICAL ECONOMY IN THE
UNIVERSITY OF TORONTO

PRESENT CONDITIONS

It is evident that the opening up and settlement of a country must bring an increasing number of delicate and intricate problems of government. Every part of the body politic is affected. In Canada, for example, the division of powers among the central government, provinces and municipalities is still unsettled and in process of working out. This development of municipal government may be called the rounding out of federation, the placing of responsibility in quarters where interest is direct. In this process the municipality is bulking more and more largely in the field of Canadian public life.

There seems to be some difference of opinion as to the sources of local powers. Thus a number of students of municipal government in the United States have pressed the argument that the mere fact of people congregating in organized groups carries with it an implication of sovereign powers of self-government spontaneously arising based on self-interest. But the argument can mean little more than a plea to the legislatures for a wider margin of implied local powers. Hence we need have in mind only such powers as are definitely given by provincial or by federal statute.

Just what are the limits in Canada to legislation by the federal Parliament on subjects affecting municipalities is at present impossible to say. That body deals with matters affecting public order and safety, such as the militia. Co-ordinately with the provinces it regulates the retail liquor traffic (Canada Temperance Act, 1878). It controls "public harbours."[1] It has supervision over railways, telegraphs, and other works extending beyond the limits of one province, or such works as it vaguely declares are "for the general advantage of Canada." Under the head of regulation of trade and commerce it has a measure of jurisdiction over telephone, electric light and power companies.[2] This is possibly to some extent by way of analogy with

[1] What looks like an anachronism is the harbour of St. John, N.B., which the courts have held not to be a "public harbour" within section 108 of the B.N.A. Act, and is accordingly vested in the municipality. All other harbours of importance are under federal jurisdiction.

[2] The railway Acts of 1883 and 1888 laid it down that any branch line which connected with or crossed a railway declared to be for the general advantage of Canada should itself be deemed to be a work for the general advantage of Canada. The effect was that street railways or other railways using the highways passed from municipal and

the clause affecting railways, telegraph companies, etc. In one instance (Ottawa) the local street railway has powers from both federal and provincial authorities.

So the problem of distinguishing provincial (and municipal) as against federal interests bristles with difficulties; but a serious attempt to arrive at a working basis is desirable. Thus at the time of writing the Supreme Court of Canada is actually considering the argument that provincial corporations cannot legally transact business beyond the boundaries of the province.[1] Moreover, by reason of inter-local consolidation the control of local transportation and related enterprises is threatening to pass from municipal, if not from provincial, hands. It is a novel situation, full of possibilities alike to the financier and to the constitutional lawyer. Whatever the outcome as regards provincial powers, the provinces can never be completely ousted. Their hands will always control the immense leverage that comes with powers of police and of local taxation.

Somewhat similarly the relations of province and municipality are still being shaped. The view has long prevailed that in fixing the federal subsidies to the provinces the fathers of Confederation were intending to make direct provincial taxation unnecessary. Be that as it may, provincial expenditures have expanded greatly and provincial treasuries have had to contrive a variety of local measures of relief. Although these vary in time and character, they are of a class, and may be grouped into typical processes: (1) Certain responsibilities have been transferred from province to municipality, such as the preparation of voters' lists. (2) Certain revenues, such as legal fees, formerly accruing to the municipality, have been appropriated in whole or in part by the province, as a result of the process of legal centralization, and others have been replaced by a provincial succession duty tax. (3) The province has been sharing in the revenue from liquor license fees, and in the taxa-

provincial control under the control of the railway committee of the privy council, and the value of the municipal franchises seemed to be seriously threatened. The Act of 1903, which is law to-day, declares local lines to be subject to federal control in respect only to connections or crossings, or to through traffic thereon, or anything appertaining thereto. This is one of the danger clauses now threatening municipal privileges for radial railways.

[1] It will be recalled that differing from the United States the provinces of Canada have only such powers as are expressly granted to them.

tion of corporations. But the province has been paying back indirectly in the form of grants for education, hospitals, asylums, public libraries and roads much more than it takes.

Nothing seems fixed, however. Municipal budgets are growing. In many cases local expansion is more in evidence than provincial. This fact the student of municipal government cannot disregard, for the relative rates of development may be expected to fix in many ways the future administrative relations between province and municipality. A recent example is the provision for the taxation of railways in Ontario. The province collects the tax but distributes one-half, less certain charges,[1] among the municipalities. Provincial control of municipalities, apart from measures concerning sanitation and others involving municipal debenture issues, is not as a rule close. Allowance is evidently made for the rough and ready business methods of small municipalities, and for the sturdy individualism of rural citizens, especially in cases involving additional expense to the local taxpayer. The reluctance to establish a system of provincial audit and failure to insist on adequate and prompt statistical returns will serve as illustrations.

Municipal budgets, as remarked above, are growing rapidly. The annual expenditure of Winnipeg already exceeds that of Manitoba; Montreal's that of the province of Quebec; and until the present year Toronto's that of the province of Ontario. The grand total of municipal debts already approaches 150 millions, which means that for every two millions of provincial debt (including guarantees) there are three millions of municipal and eight millions of federal indebtedness. Municipal debts in the province of Ontario stand at about 70 millions;[2] in Quebec at 38 millions; in Manitoba and in British Columbia at over 10 millions; in the Maritime Provinces at 15 millions. Fresh issues

[1] An appropriation for the expenses of a railway and municipal board and a small *per caput* charge (10c. per day), for municipal (non-paying) patients in provincial asylums. The latter deduction is an ingenious means of interesting municipalities in the character of the patients they send to the provincial institutions. At present many of these patients seem to be little more than harmless vagrants sent there to relieve the local poorhouse or jail.

[2] Latest available figures are for 1904 when the total was 68.2 millions, with 12.5 millions of sinking funds. Ontario is further liable for some 7 millions of guarantees (chiefly railways), as is Manitoba for some 16½ millions. The faulty classification of municipal statistics prevents any reliable estimate of assets (sinking funds, reproductive properties, etc.).

are being marketed constantly. During the three years 1904-6 sales of municipal debentures, as reported by one bond house, reached a total of $31,877,415, in addition to small issues taken up privately and $3,217,492 offered for sale but withdrawn to await a more favourable market, or altogether between thirty-five and thirty-six millions. With this is to be compared the total debenture issue by the various provinces for the same period of $20,698,087. Moreover the rapid development of the country is being accompanied by the organization each year of many new municipalities.

These figures are impressive. They suggest the part played by local government in our national life; and the rôle seems to be steadily widening, as it is in Europe and elsewhere in America. The services performed by a modern municipality certainly go beyond the dream of a comparatively few years ago: better roads and pavements, markets, water and sanitary services, elaborate municipal and educational buildings, libraries, electric railways, light and power, telephones, etc. Inter-municipal connections, moreover, are multiplying fast until for a number of purposes the modern municipality is already regarded as a link in a chain. Franchise-holding and franchise-seeking corporations recognize the new conditions, as is clear from their greater aggressiveness in securing, consolidating and exploiting local franchises in neighbouring localities.

Bearing in mind the piece-meal method of municipal legislative amendments it was to be anticipated that the rapid expansion of municipal activity would at least temporarily overtax municipal machinery. An organization framed for simpler conditions is not necessarily adapted to the present. Let us first refer to the relations with the provincial government, then to permanent municipal staffs, mayors, controllers, and councillors.

Relations with the Province (Local Government Boards, etc.).—The character of municipal government is necessarily shaped by its powers. As a provincial corporation it carries out the wishes of its shareholders (ratepayers, citizens, council) within the limits of its power, and in a second capacity it obeys the instructions of the provincial government. The instructions are to be found in the general municipal Act and in other Acts of a more specific nature. As a corporation it may sue and

be sued for what it does of its own free will; but for its actions in carrying out the instructions of the provincial legislature or government it is free from liability for tort. Decisions of the courts in cases involving municipal liability have made this dual character clear. For example, in matters of police and sanitation the municipality is carrying out provincial instructions. A layman might call the municipality under these circumstances a provincial agent, but the legal implications of the word agent lay it open to objection here. In establishing a fire brigade or in erecting a municipal building, etc., the municipality is alone responsible.[1]

It is the practice of courts to construe municipal powers strictly, as it does those of an ordinary corporation. As long as provincial supervision and control are exercised through the legislature and through formal Acts without a measure of elasticity being given to them by means of some form of local government board, this attitude seems not only advisable, but inevitable. But the municipality is more than a corporation. In so far as it looks after purely local needs there is much in favour of its claim to freedom of action, and to this extent to the grant of a wider range of powers. As it is, municipal powers in Canada are at present enumerated in as great detail as in the United States, in much greater detail than in England where an efficient local government board exists, and in still greater detail than on the continent of Europe, where administrative supervision is carried further than in Great Britain. The result in this country is frequent appeals to the legislature for fragmentary additional powers, and in the interim serious delays and interruption to municipal business. Taking Ontario as an example, of the 150 Acts passed in 1905 no less than 60 applied to municipalities. It is the old problem of the limitations of a written as against the flexibility of an unwritten constitution. The Act

[1] See Biggar's *Municipal Manual*, pp. 595-598. It seems to be good law that a municipal corporation is not responsible for the negligent acts of officers appointed in obedience to an Act of the legislature to perform public services in which the corporation has no particular interest; and when the duties of an officer are prescribed by law and he is not subject to the control and direction of the corporation he is a public officer, and not in any sense a servant or agent of the corporation, e.g., a medical health officer, or a policeman making an illegal arrest (subject to certain exceptions in Quebec province). In the United States, but not in Canada, this rule has been extended to include firemen. The case of a pathmaster or overseer of highways failing to fulfil his duties and thus causing damage seems to stand very near the line.

incorporating the city of Edmonton (1904) marks an interesting deviation from Canadian practice in this regard. Drawn by the editor of *The Municipal Manual* (formerly city solicitor of Toronto), it makes a grant of municipal powers in general terms. "The council may make by-laws," the Act reads, "for the peace, order, good government and welfare of the city of Edmonton, and for the issue of licenses and payment of license fees in respect of any business; provided that no such by-law shall be contrary to the general law of the territories and shall be passed *bona fide* in the interests of the said city of Edmonton." But the granting of franchises, and measures involving the expenditure of money, call for the consent of the ratepayers. It is further laid down that no franchise is to run for longer than 20 years and that 40 years is to be the maximum period for any debenture issue. This Act has been essentially reproduced for the city of Regina (1906). Montreal has a somewhat similar clause in its charter of which it seems never to have taken advantage.

The detailed enumeration of municipal powers rests on the theory of legislative control. Where matters give rise to questions of policy legislative control, or control by statute, is necessary; but in connection with questions of administration the situation is different. First to submit practical problems to the elaborate, often inexpert legislature is a serious interference with the business-like transaction of municipal work. The further effect is frequently felt of such a policy introducing party politics or inter-municipal "log-rolling" into local issues. Of the 60 municipal Acts passed in Ontario in 1905, no fewer than 44 were special Acts; 32 of these concerned business questions and 4 were incorporations. The practice of deciding local business issues by legislative enactment becomes at times even absurd, when in order to save itself the expense of a special Act a municipality is allowed to secure an amendment to the general Act covering the issue involved.

For some years Ontario, which may be taken as a typical province, has been moving slowly in the direction of relief from this situation. It has already a number of expert officials or boards apart from the Legislature to advise on or to supervise municipal affairs. One may instance the provincial board of

health, the provincial auditor (whose powers, however, are not compulsory), the provincial bureau of industries (statistical returns), and the provincial roadmaster. Not long ago the Ontario Municipal Association placed itself on record as favouring the establishment of a comprehensive local government board. Recently (1906) a decided advance was made in the appointment of a railway and municipal board of three members.

The new board is a United States state railway board transplanted with some municipal duties added, a kind of advisory council of the Cabinet and Legislature. It has power to consider and determine agreements between municipal and public utility corporations and to compel their fulfilment; it has also police supervision over the operations of public utility corporations and power to act as mediator in the event of a strike among the employees of such corporations. Appeal from its decision is allowed only with the consent of the court after hearing the evidence of both parties and only on questions of jurisdiction and of law. It superintends the system of book-keeping and account-keeping of all public utilities operated by municipalities, and in its annual report is to include a critical and statistical review of railway and street railway transportation in the province, with suggestions for any advisable changes in railway policy. It hears assessment appeals, doubtless because the most important appeals are those concerning the taxation of public utilities. It determines alterations of municipal boundaries. It replaces the Lieutenant-Governor-in-council in providing or confirming municipal bills relating to public highways and the purchase of public utilities. On request of the Legislature or one of its committees it is to inquire into and report on matters of fact connected with private or special bills affecting municipal interests.

While it concerns itself directly only with a narrow range of municipal subjects, the creation of such a board must be regarded as one of the most hopeful changes in Canadian municipal organization which have taken place for some years. The work entrusted to it is one of great importance. The present limitations on its powers, however, are too artificial to last and must fall away to a considerable extent as its work develops. It may not, as the English local government board does, associate with

itself the provincial board of health, supervise poor law administrations, unite with its own statistics the registration of births, deaths and marriages, or supervise the police system of the province.[1] But it is difficult to see how in arranging for uniformity in the book-keeping of municipally owned utilities and statistical returns it will not feel called upon to provide for uniformity in municipal book-keeping, audit and statistics generally, as is so much to be desired. It is not supposed to be a consulting board on a variety of municipal problems, yet the popular attitude, particularly of rural municipalities, has been leading it from the beginning to act in that helpful capacity. If the board is an administrative success one may expect its natural evolution to help in reconciling wider municipal powers with provincial control.[2]

Permanent Municipal Staffs.—Our municipal governments have been criticized for deficiency in business organization. Clearly their success depends mainly on the standing of the heads of departments and their staffs, and insistence on departmental responsibility. Until councils appoint only the best available ability satisfactory results cannot be expected. The customary standard of salaries paid to officials is low considering the interests at stake. It must be raised if a municipal civil service as the field for a career is to be made possible and if men are to be secured whose services will relieve councils of the infinite details of municipal administration. To-day, in spite of the expansion of municipal business, apart from legal staffs, the payment of a salary of $5,000 is extremely rare even in the two metropolitan cities of Montreal and Toronto. As a result

[1] In every province with the incoming of foreign population a measure of provincial supervision and organization of the police would appear to be growing more and more necessary. The present Ontario system (which may be taken as typical) is a very simple affair. Any crime which a local justice of the peace or a local crown attorney thinks too serious for the rural (county) constable, he reports to the Attorney-General who thereupon, if he thinks it advisable, despatches one or more of his three (!) detectives to the scene of the crime. That outside of the larger towns and cities serious delays in the pursuit of criminals are frequent is not surprising. As for the Dominion Government, it polices the territories, and like Ontario keeps a small staff of detectives ready to follow up matters in which the federal government is particularly interested, e g., customs, coinage, postal and other matters.

[2] Since March 27th of the present year (1907), the Legislative Assembly requires the board to report on all private bills for consolidating floating debts of a municipality or for renewing municipal debentures. The annual appropriation of $30,000 for the board for all purposes indicates the modest ideas prevailing at its creation.

municipal employment is too often merely a stepping-stone to something more adequately recognized, and local service suffers accordingly.

Mayor and Controllers.—Following the United States, Canada has abandoned the English practice of having the aldermen choose a mayor from among themselves. Mayors are uniformly elected by popular vote, and in most cases hold office for one year, though re-election for a second term is almost usual. Unlike his English prototype the Canadian mayor is frequently elected without having had previous municipal experience.

In Prussia, by way of comparison, it is interesting to note that the mayor (who is always a lawyer) makes municipal government his professional career. He specializes on municipal law and administration, serves his apprenticeship, is appointed on salary by the council as its mayor and co-operates with the departmental officials in taking charge of local business. As his success grows and his fame spreads he is perhaps invited to accept the post of mayor of a larger town, holding his position indefinitely. He is the link between the elected council and the ordinary permanent staff.

But this is not the direction of Canadian development. Efforts to separate legislation and administration have given birth to a so-called board of control of four members elected, like the mayor, by popular vote, but usually thus far from men who have already sat for a certain time as local councillors.[1] Several Ontario cities, and in the west Winnipeg, have such a board, which is Canada's most distinctive contribution to municipal organization. Apparently it has not yet reached its full development. Its work and that of the chairmen of committees clash somewhat. The logical outcome would seem to be a more permanent body of administrators of some kind. Already the controllers in Toronto meet daily; business formerly reserved for committees meeting weekly or fortnightly is frequently submitted to them to be disposed of at once: they are coming to be regarded more as civic officials; soon they will have offices in the city hall, and if their tenure of office is extended they will form to all intents a permanent administrative board.

[1] Initially the board, which originated in Toronto, was made up of the mayor and three aldermen chosen by the council.

In the Acts already referred to incorporating Edmonton and Regina this tendency is again in evidence. In place of a board of control we find a board of commissioners consisting of the mayor and two others appointed by a three-fourths vote of the council. The commissioners can be dismissed only by a two-thirds vote of the whole council; they have charge of assessment, collection of taxes, police, fire protection, and all other public services, property, and works, and submit the annual estimates of expenditure. They constitute a species of board made up of controllers and expert departmental heads in one. The innovation is an interesting instance of government by commission directed by an elective council. The success of the government of Washington, D.C., by a board of commissioners has not been without its influence on Canadian public opinion, but the pressing need for a more business-like municipal organization is the real compelling motive.

Councillors.—In the absence of rigid departmental responsibility councillors must frequently be both field force and general staff, often carrying on a running fight with corporations and private interests whose personal and other influences cannot be despised. They are exposed also to the trials of annual elections (though the number of examples of cities with two and three-year terms, one-half or one-third of the council elected each year) is slowly growing;[1] and withal, at least in cities, their position lacks the solace of social prestige. To some extent the extinction of small wards or the abolition of wards altogether has helped to better the influences under which councillors are elected; but the obstacles to the right class of men offering themselves for the council, as already suggested, are more deeply seated. Too much is expected of them; and the conditions of their tenure of office (yearly elections, etc.), are unfortunate. As a result, speaking generally of the larger towns and cities, the present shows municipal operations of growing magnitude in the hands of men who have not been entrusted with similar responsibilities in any other field.[2]

[1] For example, in 1907 Kingston, Ont., and Sherbrooke, P.Q., inaugurated three-year terms for aldermen.

[2] A judgment debtor may qualify on his wife's property and sit in the council, a contingency that has more than once occurred, and should be provided against.

The Referendum.—Reference of important matters to the vote of the ratepayers or of the electors at large has accordingly come to be an important feature of municipal machinery. The principle of consulting the people is particularly prominent in the Edmonton and Regina Acts already referred to, and almost equally prominent in practice elsewhere. By an Act of the present year (1907) the Quebec Legislature requires that all light, power and street railway franchises for periods of over ten years receive the consent of the electors.

Special Acts of Incorporation (Civic Charters).—As pointed out in the paper on *City Government in Canada,* the practice is so often met with of passing a single general Act for each province in place of special Acts that general Acts must be called an important feature of Canadian local government. Such practice is in line with the trend of legislation in both Europe and the United States. The question of its advantages was recently raised in Toronto by an incipient movement for a special Act. Though the movement miscarried it calls for some reference. The transaction of civic business in Toronto had been frequently retarded by the narrow grant of local powers occasioning frequent appeal to the Legislature for special measures of relief. The real problem is one of wider local powers and should become easier of solution through the evolution of the municipal board. The Edmonton and Regina experiments of a general grant of powers will be instructive in this connection. As is clear from the experience of cities governed by special Acts, charters when once secured are no guarantee against continuous amendment if powers are enumerated in detail. Moreover, special Acts necessarily isolate the individual municipalities in the Legislature and lead to inter-local "log-rolling." They also restrict general interest in municipal amendments and lose the enormous advantage of great legal precision that comes to a general Act through the multitudinous decisions of the courts.[1]

Municipal Ownership.—The industrial province of Ontario is naturally foremost in experimenting with municipal ownership. A return of the provincial Legislature in 1903 shows that 63 municipalities had charge of their own water supply, 39 of

[1] See *The Question of a Charter for Toronto and of Civic Charters in General* by the present writer in *The Municipal World,* January, 1905, p. 8.

their electric lighting, and 3 of their gas lighting; one owns its street railway, one a dock, and another a cemetery. Those numbers must now be greatly increased. Four Ontario towns own their street railways—Port Arthur, St. Thomas, Guelph and Berlin. Outside of Ontario, apart from waterworks, which are usually municipal property, Quebec has at least four municipal electric plants, Alberta three, and British Columbia and Nova Scotia each one. There is a municipal asphalt plant in Winnipeg and in Westmount, P.Q., while one is about to be erected in Toronto. A growing number of municipalities also carry on a local telephone service. In Toronto the mayor sits *ex officio* on the board of the local gas company.

But figures cannot tell the whole story. Popular opinion is very much as it is in the United States, if not inflamed against, at least suspicious of, public service corporations, and inclined to sympathize with programmes of municipal ownership. As outstanding examples one may cite the recent popular endorsation in Ontario of combined provincial and municipal control of electric power from Niagara, and in Manitoba and Alberta of similar control of telephones. Public opinion has doubtless been materially influenced by foreign and domestic investigations of company finance, by the failure of public service corporations to provide for the rapid growth of a number of towns and cities, by the aggressive and unconciliatory attitude of a number of prominent public utility corporations and by the failure of the courts to enforce promptly compacts between them and municipalities. The inability of Montreal and Toronto to cope with their street railway, electric light, and other corporations, has been long patent to the country. Important also is the general recognition of the growing value of public franchises and the eagerness of corporations to secure additional privileges.

Typical in many respects is the situation in Ontario with regard to the development and distribution of electrical energy. A provincial and a municipal commission have each investigated and issued a report covering the Niagara district. The latest and second largest power company, the Electrical Development Company of Ontario, Limited (incorporated by provincial letters patent), with its subsidiary transmission company (with a federal charter), has already expended upwards of $10,000,000

and seemed about to be in a position to dictate terms for power to the country round about. The uppermost question was that of rates. Rightly or wrongly the impression prevailed that tolls would be what the traffic would bear, and no effort was made by the promoters to correct it. Popular vote of interested municipalities overwhelmingly asked their councils to co-operate with the provincial government and see what terms could be arrived at. The companies' directorate urged the discouragement of private capital in Canadian enterprises and the financial risks of municipal ownership. The stakes are too great for the directorate not to modify its attitude and, if possible, come to a frank and reasonable understanding with the government and the public. It would seem that in this event only can a revolutionary step in the direction of public ownership be rendered, for the time being at least, superfluous.[1]

As for Manitoba all Canada awaits with interest the outcome of its telephone policy—public ownership of the trunk lines and municipal operation of the local service. The Alberta government is also contemplating the inauguration of a similar policy.[2]

The history of municipal ownership in England and in America affords an interesting contrast and parallel. English municipal socialism is practically an offspring of theory. Theory shaped the tramway Act of 1871 which almost paralyzed private initiative as regards street car enterprises, and dictated the expropriation clauses of various later public utility Acts which

[1] This is scarcely the place to enter into the interesting details of the companies' organization and financial operations. It need hardly be denied, however, that by securing tenders for electrical energy from more than one Niagara company the Government was threatening the success of the youngest enterprise, much less the security of its bonds. At the present moment the Provincial Government has come to an understanding with the Ontario Power Company for what power it desires. This company stands also willing to erect transmission lines to the various municipalities subject to provincial guarantee of a low rate of interest on the cost, the local distribution to be left to the individual municipalities. The high rates of the Montreal Light, Heat and Power Company in Montreal and district show amply the danger to be expected from unregulated monopoly; and if ever the policy of municipal ownership thrives in Ontario and Quebec as regards electrical energy, private interests will find a reasonable explanation ready to hand. At the present moment it would seem that the Electrical Development Company is prepared to come to an understanding with the Ontario Government, the only question being that of terms.

[2] According to the recent (1906) Manitoba statute, should the ratepayers in any municipality so decide by popular vote the municipality is given power to expropriate against compensation the interests of any local telephone system, the government guaranteeing the debentures rendered necessary by the purchase.

checked the development of electrical industries in England for many years. Public utilities were looked upon as safe investments, and the public was to enjoy the profits and reduce its municipal taxes. In America, including Canada, the direct influence of socialistic theory on legislation seems to have been small. Broadly speaking, as far as one may discover a movement for public ownership, it appears to have grown out of the apparent impossibility of controlling public utility corporations. Corporation control by Act of Parliament and the courts has broken down, and not to be baulked public opinion frequently cries aloud for expropriation. Thus theory in England and practice in America have led up to much the same policy.

While it would be easy to over-estimate the significance of the coincidence, a measure of municipal ownership is inevitable either by reason of intractability of local corporations, or on other grounds. Without discussing this aspect of the wide problem, or the merits and demerits of the policy, it may be noted that in practice, judging from English experience, municipal ownership is liable to become to a certain extent an attitude of mind, and that frequently in place of municipal rates falling by reason of earnings in the end they soar. American experience would seem to point for the present not so much to public ownership as to more effective means of regulation and control, to improvement in the machinery of government, a creation of administrative boards or commissions with power to enforce contracts.[1] England has its local government board (with limited powers) and the continent of Europe its close administrative supervision; in Canada Acts of Parliament and the palsied arm of courts of law have been helped out by the appointment of special commissions, temporary or permanent, and of special railway, taxation, municipal and other boards with an experimental range of powers. It has long been customary to point the finger at continental bureaucracy. But continental bureaucracy fell short only because of its irresponsibility. In the various boards Canada appears to be developing a type of responsible bureaucracy. If in this way it is able to secure a fair observance of contracts and fair administration of public

[1] See for example, Meyer, *Municipal Ownership in Great Britain*. New York, 1906; Laughlin, *Industrial America*, New York, 1906, pp. 138, 182, 248.

utilities the impetus to direct municipal operation may be expected to slacken. One ventures to think that the public is concerned more with results than means. An illustration may be found in trade union policy. Based on the wages system trade unionism aims at using its organized force to compel the highest possible wage, leaving to the capitalist the risk and strain of making what profit he can on those terms. In principle it is thus anti-socialistic. Somewhat similarly would it appear to stand with municipalities in their relations with public utility corporations. If this view is correct systems of co-operation with profit (and loss) sharing must be negotiated between the two sides if private enterprise is to be preserved.

The inability of the courts to enforce statutory contracts makes possible still another parallel. Centuries ago courts of equity became possible through the imperfections of the courts of common law; to-day for much the same reason boards of administration are being made necessary. Marsh in his *History of the Court of Chancery* says: "The existence and continuation of [courts of equity] was rendered necessary by the technicality of the common law judges, by their strict adherence to form and precedent, by their inclination to follow what they understood to be the strict letter of the law, no matter how absurd or unjust the results might be, by their unwillingness to mould the doctrines and practice of the common law to meet the exigencies of the times, and their unwillingness to afford new forms of legal relief in cases and combinations of circumstances which had not been foreseen and provided for by the early fathers of the Common Law." These words seem to have a remarkably modern application. At least it is some such situation that is to-day making the extension of governmental machinery the only way out of a frequently perplexing and intolerable situation.

In Canada difficulty in controlling corporations is not, of course, the only explanation of any inclination towards public ownership. Many other influences play a part—the coming of new municipalities and the rapid growth of others, chances for profit-making, and local anxiety for public services in advance of private initiative. In Ontario municipal activities have advanced far enough to lead the provincial minister of finance in a recent budget speech to issue a note of warning against the rapid swell-

ing of municipal obligations, which the passing stringency in the world's monetary markets is emphasizing.[1]

There can be little doubt that present-day demands on public utility corporations are greater than ever, that the public expects more and is more exacting than a short time ago. At times, perhaps, it demands a higher quality of service than was usual or in mind at the time it made its contract. On the other hand, the outstanding peculiarity of corporative organization—the weakened sense of personal responsibility—is answerable for a great deal. This unfortunate characteristic is further fortified by the quasi-monopoly which organized capital holds particularly in a young country like Canada. The situation certainly demands foresight, firmness and patience. Looked at from the point of view of local governmental machinery perhaps we come nearest the heart of the problem when we say that we have continued overlong to apply ideas and methods suited to the day of small things.

Taxation.[2]—The most important change in the difficult field of municipal taxation has been the widespread substitution of either the rental tax or the business tax for the tax on personalty. In their own defence, it must be acknowledged, municipalities were compelled to make the change. Although the wealth of the country expanded, income and personalty assessments remained much as before or fell. Personal property seemed to shrink and vanish at the approach of the assessor, while municipal expenditures steadily grew. In British Columbia municipalities are not permitted to assess income or personalty; in Quebec, Manitoba, and some of the cities of the new provinces, a rental tax is levied. In Ontario the rental tax assumes the form of the business tax and a local tax commission

[1] The interesting and important question has been raised in the Ontario Legislature, whether municipalities should not be compelled to charge rates sufficient to cover costs of operation and maintenance. No municipality appears to allow loss in taxable property as an item of cost. In Toronto the water rates do not provide for maintenance or necessary extensions and fresh debentures are accordingly necessary from time to time.

[2] See the reports of the Ontario Assessment Commission, the Ontario Railway Taxation Commission, and the St. John City Tax Commission. Acknowledgment is due to Mr. James Forman, Assessment Commissioner of Toronto, and Mr. K. W. McKay, member of the late Ontario Assessment Commission, for a number of helpful suggestions on matters discussed in this section.

has recently proposed a similar change for the city of St. John, N.B.

The new business tax in Ontario calls for special mention. In that province prior to 1904 land, buildings, income and personal property were assessed. The Act exempted the personal property of banks (money, notes, accounts receivable, etc.), as also generally debts due against stock. The result was that when the assessor called too many either owed the bank or had some other qualifying indebtedness. Adding to this the usual percentage of fraudulent returns the net results were highly unequal, unjust and unsatisfactory. In fact during the decade 1880-90 the total assessment of personalty for the province instead of increasing actually decreased over three-quarters of a million dollars and taxable income over two and a half millions. Accordingly to check this untoward decline the new Act replaces the assessment of personal property by a special levy on realty under the name of "business assessment."[1] To make assessments as specific as possible land and buildings are to be valued separately—a practice long followed in Toronto. A new method, however, is adopted of arriving at the value of buildings. In place of selling value the criterion for assessment is to be the increased value the buildings give to the land—"the amount by which the value of the land is thereby increased." As under certain conditions land may be more valuable without any buildings, the precise meaning of this new clause will remain in doubt until cleared up by the courts or amended.

The business tax aims primarily at facilitating assessments rather than at increasing the public revenue; at preventing the possibility of fluctuating and arbitrary valuations, and at removing the reproach attached to fraudulent returns. It seems to have been suggested by the report of a New York tax commission of 1870 and subsequently. It was arrived at in the following manner. A table was drawn up showing the total personalty assessment for the whole province classified according to occupations and professions (e.g., retailers, wholesalers, departmental stores, manufacturers, distillers, public utility corporations, financial institutions, professional men, etc.). A second

[1] Section 36 of the Ontario Assessment Act gave municipalities power to enforce a rental tax, but it was never taken advantage of.

table showed the realty assessment for each of these classes. The problem was to find for each class what percentage of its realty assessment would equal, and therefore give the same revenue as its old personalty assessment. Thus it was found that if retailers in large cities paid the ordinary tax rate on 25 per cent. of their realty assessment, they would be paying as much as they paid formerly as personalty tax. Their business assessment was accordingly fixed at 25 per cent., that is, 25 per cent. of their realty. For distillers it was found to be 150 per cent.; for wholesalers, 75 per cent.; for manufacturers, 60 per cent.; for departmental stores, 50 per cent.; the same rate also for professional men, etc. Smaller municipalities found it necessary to vary their percentages somewhat to suit local financial requirements, e.g., 30 and 35 per cent. for retailers, etc. The minimum assessment is fixed at $100, which is equivalent to a species of trade license.

The following points will be noted. Though the primary aim of the business tax is improvement in the system of assessment, it does increase revenue by not allowing any one to escape taxation.[1] The number of individual assessments now far exceeds that under the old Act. To this extent it makes for equality; but in so far as the old personalty assessments, on which the present tax is based, were inaccurate, the existing tax perpetuates the inaccuracy. The question at issue is whether the percentages of the realty assessment of the different classes of business represent their net earning power or income. From this point of view the present system can be looked upon only as tentative and experimental both in the more or less arbitrary classification of business and in the relative percentages adopted. For the time being by making realty the basis of assessment the actual effect of the new tax is to reduce the burden on those who formerly were honest enough to pay a high personalty tax, and to increase it on the man who successfully dodged his personalty taxation. Being based on realty values, the new tax is more elastic than the old, growing with the wealth of the community. On the other hand, during periods of trade depression when stocks are light it is quite conceivable that it would not fall

[1] Railways alone are not subject to the business tax but to a special provincial assessment.

correspondingly. As long, however, as assessment is comparatively low, as it is at present, there is small likelihood of appreciable hardship.

The tax is not a rental tax such as exists in Montreal, Quebec, Winnipeg, Edmonton, Regina, etc.[2] The rental tax was actually recommended by the Ontario Tax Commission but rejected by a special committee of the Legislature in favour of the present basis partly for technical reasons, the business assessment being made more readily, besides allowing of greater simplicity for the taxpayer. Rentals are used only as guides in estimating sections of buildings, such as offices. The commission also suggested that the business tax be supplemented by a house tax corresponding to the business assessment. This was omitted in the final draft. The St. John tax commission, in its proposed system for St. John, reverts to the inclusion of the house tax.

Manufacturing and farming machinery are exempt, but the plants of utility corporations are taxed in order to get approximately the same revenue from them as before. Railways, by a later amendment to the Act, are assessed by the province and the revenue divided, as already explained, between the province and municipalities. Some objection has been made to railway assessment being made only every five years; but for practical purposes quinquennial assessment probably answers the needs of the case as well as can be expected at the present moment, especially as this is the first instance of systematic railway taxation in the Dominion.

Employers must make returns of the income of employees. This is an important new provision which secures greater accuracy and equality. Telegraph and telephone companies are also to make certain specified returns to the province. The assessment commissioner of Hamilton reports that the power given to compel both employer and employee to make returns "has resulted in such additions as almost stagger one."[1] The logical suggestion may be made that, similarly, trustees should be required to give returns of beneficiaries. In the income

[1] In Manitoba the *Act respecting the Taxation of Personal Property in incorporated Towns and Villages*, 1906, introduces the business tax. It is to be brought into force only by proclamation of the Lieutenant-Governor-in-council with respect to specified municipalities. So far about a half dozen municipalities have adopted the Act.

[2] *Canadian Municipal Journal*, Sept., 1905, p. 275.

assessment the chief change is the exemption of $1,000 for householders and $600 for non-householders. When an income tax is paid allowance is made for business assessment in places of over 5,000 population. Thus a lawyer with a gross income of $2,500 (of which $1,000 is exempt) and a business assessment of $1,000, pays on 25 per cent. of his $1,000 as business assessment and on an income assessment of $1,250 (this being $1,500 less $250). Some discrimination is shown against incorporated companies by their officials being assessed on income, while officials of non-incorporated companies are passed over. A bill rectifying this inequality is before the Legislature. It may be added that there is no franchise tax in force in Canada.[1]

It will not be denied that the new tax is a great improvement on the old one. Yet one is given to understand that better results might have been, and still might be, obtained if local councils recognized more adequately the value of expert assessors. High salaries seem to be the bugaboo of municipal government. Yet it is admitted that authoritative men can get higher assessments and create less irritation than lower priced officials. One can gather an idea of conditions when it is remarked that in Toronto, which may be taken as fairly representative, the salaries paid to assessors run from $1,200 to $1,500, only one of the eight assessors at present employed receiving the higher sum. If men at high salaries be not employed on the regular staff, the suggestion has been made that an authoritative assessment be undertaken at least once every five years, by which means the basis of values could be fairly well maintained.

The Franchise.—Although the Ontario Act assesses incorporated companies, it deprives them of the franchise. At the drawing up of the Act it was argued that the advantages of incorporation offset the disadvantages of inability to vote; but such an argument is not consistent with the theory of representation. The great majority of businesses, even of a personal nature, are being incorporated, and in the larger towns the growth of apartment houses completes the disenfranchisement

[1] The income tax seems to threaten to annihilate the statute labour tax. In Toronto it has not been levied for two years as the expenses of collection were greater than the yield, and the income and other assessments seemed to answer the purpose.

of a great number of the stockholders who would otherwise qualify as freeholders. If the referendum on money by-laws is to be preserved as a reality and not made a fiction, contributors to the municipality, whether incorporated or not, should be given a voice in the expenditure of their taxes. The Edmonton Act not only enfranchises corporations (as does also the Regina Act), but allows each burgess one vote for an assessment up to $599, two for one of $600 up to $1,199, and three for one of $1,200 and upwards, besides giving him the right to vote in each ward in which his name appears on the voters' list.[1]

Municipal Co-operation.—The number and importance of matters in which municipalities have common interest are rapidly growing—sanitation, good roads, telephones, electric railways, electric power, the widening and consolidating of public utility enterprises, etc. The new municipal situation that this is creating has resulted in municipal associations of various kinds for discussion and co-operation.

The Ontario Municipal Association dates from 1894. There is also a minor body called the Ontario Rural Municipal Association of younger date. In 1901 with a charter representation of 52 towns and cities came the Union of Canadian Municipalities formed on the model of the National Municipal League of the United States. It was one result of the futile struggle in the Quebec Legislature against the Montreal Light, Heat, & Power Company's bill, and in Ontario of the fight against the Bell Telephone Company for control of the streets. The Union has branches now in Nova Scotia, New Brunswick, Saskatchewan, Alberta, Manitoba, and British Columbia, and a federal organization with all the provincial associations is being considered. Both the Union and the Ontario Association are supported by creditable monthly journals (*The Canadian Municipal Journal* and *The Municipal World,* respectively), which add materially to their usefulness.

Uniform Municipal Book-keeping, Reports and Statistics.—If publicity is a safeguard of public institutions, satisfactory systems of book-keeping and reports are essential. At the present

[1] In British Columbia by amendment of 1900 to the Municipal Clauses Act a three-fifths majority is required when a by-law is submitted to the electors; similarly in Ontario as regards local option on liquor licenses.

moment throughout Canada there is the greatest diversity in the method of municipal book-keeping, reports and statistics. In Ontario a form of municipal accounts is prescribed for rural municipalities and also for public utilities operated by municipalities. But for towns and cities there is no uniformity of accounts in Ontario or elsewhere. As a result one need only remark that the returns made by smaller places show little improvement on the simplest classification of a small shop-keeper. It is highly desirable that the provinces should come to an agreement providing for uniform municipal book-keeping throughout Canada, independent accounts for municipal enterprises, adequate reports and full statistical returns.[1] Without identical systems of book-keeping and satisfactory tabulations by the provincial governments, inter-municipal comparisons are practically impossible. The same remark may be made of summaries for the whole country, which as time goes on will become more and more desirable. The time has come, moreover, when statistical returns to the province should not be confined to municipal enterprises, but should include returns from all public service companies after the model of those now submitted by insurance companies. Since this was written the 1907 convention of Canadian Municipalities, with this end in view, has passed a resolution which will be presented later on to the various provincial governments.

The lack of satisfactory departmental reports is another matter calling for reference. The present situation is characteristic of the system under which one finds comparatively little definite professional responsibility on the part of the heads of departments and a minimum of intermunicipal comparison.

Standardization of Debentures.—Their growing importance demands that more attention be given to municipal securities. Sometimes printed, sometimes typewritten, now and then penned on foolscap of all sizes, municipal debentures are frequently prejudiced by their very appearance. Moreover, the inconvenient amounts in which they are issued and the neglect to arrange for payment of coupons at some financial centre, frequently cost municipalities dear. A considerable number of On-

[1] See the model municipal report as proposed by the National Municipal League of the United States in "A Municipal Program" (Macmillans, 1903).

tario municipalities use a set form for their debentures. But a standard form for all municipal debentures would seem advisable. To this might be added a measure of supervision by the provincial auditor, as is done, for instance, with school debentures in Manitoba and the new provinces. The purpose there is to see that all legal provisions have been complied with, without making the province in any way legally responsible. Sections 129 and 130 of the School Ordinance of the North-West Territories at present in force read as follows:

(129) "Every debenture before being issued shall be sent for registration to the commissioner [of education] who shall cause a proper record to be kept of the same.

(130) "The commissioner shall thereupon if satisfied that the requirements of this Ordinance have been substantially complied with and if the authority to make the loan has not been withdrawn register and countersign the debenture, and such countersigning by the commissioner shall be conclusive evidence that the district has been legally constituted and that all the formalities in respect to such loan and the issue of such debenture have been complied with and the legality of the issue of such debenture shall be thereby conclusively established and its validity shall not be questioned by any court in the Territories, but the same shall to the extent of the revenues of the district issuing the same be a good and indefeasible security in the hands of any *bona fide* holder thereof."

Competent authorities urge that the effect on the market for municipal issues would be most beneficial and the expense involved small.

Such appear to be the more important of Canada's present municipal problems. A number of the conclusions come to are in accord with the practice already followed in one or more localities. Recapitulating them we find advisable in each province: (1) A single Act governing municipalities with a less specific, and therefore a wider, grant of local powers than has been customary. (2) An expert municipal board for purposes of supervision and of consultation by both Legislature and local councils. (3) Uniform municipal book-keeping, full statistical returns from municipalities, as also from all public service corporations, and a compulsory provincial audit. (4) A standard

form for municipal debentures, together with a measure of supervision by the municipal board. (5) At least in the larger municipalities a longer term of office for councillors, part of the council retiring each year, and the further development of a board of commissioners or board of control. (6) Greater attention to the qualifications of heads of municipal departments, to their professional responsibility and to the quality of their reports. (7) Extension of the municipal franchise to incorporated companies.

The scope of municipal work is steadily widening. Here the student of history on the watch for precedents may discover a recurrence of mediævalism, of a time when the town was the forerunner of the nation; though from the point of view of public services the modern municipality is far and away in advance of its mediæval precursor. It is creating a new world. This tendency towards greater municipal activity is common to both Europe and America. Hence of recent years on both continents municipal government, which ministers to the everyday wants of the people, has entered a fresh stage of development. As a school of democracy the standards of efficiency it holds up are bound to do much towards shaping ideals for the wider fields of political life. It means business before politics.

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ADDENDA

City Government in Canada, p. 9.—The qualifications of municipal voters in British Columbia are now practically identical with those in the other provinces.

Municipal History of Manitoba.—The city of Winnipeg is about to spend upwards of $3,500,000 on improving its water supply, and upwards of $600,000 on perfecting its gas supply. Pursuant to a recent vote street cars now run on Sunday. Through an inadvertence it was stated that the street railway derives its motive power from the Assiniboine River. Its power is drawn from Lac du Bonnet, about fifty miles distant, where there are some extensive falls capable of generating a great deal of power.

Ontario precedent has been followed in the provision for a Board of Control for Winnipeg consisting of four controllers with the mayor as chairman, elected annually by the city at large. The mayor's salary is not to exceed $5,000, a controller's $4,000. In particular the Board is required to prepare and present to the council estimates of proposed expenditures, prepare specifications and award all contracts on behalf of the city; report to the council monthly or oftener upon all municipal work under way, and suspend or dismiss any heads of departments. The council by majority vote may overrule the Board, refer back or add to its recommendations. In case the head of a department is dismissed a two-thirds vote is necessary to reinstate him.

As regards public interest in civic government it may be said that widespread dissatisfaction with the municipal council resulted in a successful campaign to secure representative candidates for seats in the council.

The municipal commissioner issues a summary of *Statistical Information respecting the Municipalities of the Province*, showing the total assessment, taxes and debenture debt. Mention may also be made of the recent report of the *Public Parks Board*, giving an historical account for the years 1892-1905.

North-West Territories.—The new province of Saskatchewan appointed a commission to suggest a municipal organization for

the province. Separate Acts are recommended for cities, towns and villages (which must have respectively populations of 5,000, 500 and 75). Buildings and improvements are assessable at not more than 60 per cent. of their value, and incomes up to $1,000 are exempt. The general grant of municipal powers in the Edmonton and Regina Acts is provided for, as are also uniform municipal book-keeping, and a compulsory annual audit by a provincial auditor. Aldermen are elected for two years, mayors for one year. Formerly, villages were under overseers; they are now under elected councils of three members. Rural organization consists of municipalities 18 miles square (nine townships), there being no provision for townships or counties. All municipalities will be numbered, but may be given names. Each municipality is administered by a council of six councillors and a reeve, elected yearly. Everyone occupying for not less than six months or owning not less than 140 acres within the municipality is entitled to vote. Compulsory uniform system of municipal accounts and provincial audit is provided for in this class also. A number of western towns are endeavoring to work out a system of local government by means of commissioners and an elective council. It is too soon to look for definite results. Thus far public sentiment has not leaned towards restricting the municipal franchise. In one city the right to vote for mayor and aldermen is extended to those who have paid a dog-tax of $2.00, and it is said that six women recently voted on their common property in a single dog, while another took out a license for a china dog upon her mantelpiece.

Present Conditions.—The Supreme Court has just handed down an important decision that any corporation incorporated by a province has power to transact business in any other part of Canada.

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